United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, SECOND SESSION

*Vol. 146* WASHINGTON, WEDNESDAY, APRIL 12, 2000 *No. 46*

# Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Reverend William K. Simmons, of Lexington, KY.

We are glad to have you with us.

## PRAYER

The guest Chaplain, the Reverend William K. Simmons, offered the following prayer:

Let's pray together.

Almighty God, this body gathers today to conduct the business of the Republic. We pause to give thanks for Your blessing on our land and to seek Your continued care. Honor, we pray, the deliberations of these, selected by the people to represent them in guiding our Nation toward the goals of freedom, justice, and equality for all. Give each Member a sense of Your presence as he or she deliberates; may their judgments be those You can and will bless.

We also remember the families of these present. Care for them whether they be here or back home. Keep them safe within Your protective Spirit.

May we always be mindful that governance is a sacred pact between the government and its people. Let us not in this seat of power fail to hear them. Bless these Senators this day and inspire them to serve the people with wisdom and humility. Amen.

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## PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Colorado is recognized.

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## SCHEDULE

Mr. ALLARD. Mr. President, on behalf of the leader, I announce that today the Senate will be in a period of morning business until 12 noon. Following morning business, it is hoped that an agreement can be reached regarding the consideration of the marriage tax penalty legislation. If an agreement is reached, Senators may expect votes throughout the day. If no agreement is reached, the Senate will remain in morning business, with Senators speaking for up to 5 minutes each. As previously announced, the Senate will consider the budget resolution conference report and the McConnell stock options bill prior to the Easter recess.

I thank my colleagues for their attention and yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

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## ORDER OF PROCEDURE

Mr. REID. I ask unanimous consent that during the period of morning business today Senators DORGAN and DURBIN be recognized for up to 15 minutes each. This would kind of balance out the time on both sides; that is, after the 2-hour block of time that has been set aside for others already.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

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## RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there shall now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the time until 11:30 a.m. shall be under the control of the Senator from Kansas, Mr. ROBERTS, and the Senator from Georgia, Mr. CLELAND.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, it is my understanding that Senator CLELAND and I have 2 hours reserved under the previous order in morning business. Is that correct?

The PRESIDING OFFICER. The Senate is correct. Your time is reserved until 11:30 a.m.

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## NATIONAL SECURITY INTERESTS

Mr. ROBERTS. Mr. President, I am going to begin my remarks. We had originally intended for Senator CLELAND to begin this dialog. But I am going to go ahead since he has been detained. Then he can follow me. I do not think that is going to upset the order at all.

I thank my good friend, the distinguished Senator from Georgia, for this continued initiative and for his leadership in continuing our bipartisan foreign policy dialog.

As I said back in February during our first discussion, our objective is to try to achieve greater attention, focus, and

mutual understanding—not to mention a healthy dose of responsibility—in this body in regard to America's global role and our vital national security interests. Our goal was to begin a process of building a bipartisan coalition, a consensus on what America's role should be in today's ever-changing, unsafe, and very unpredictable world.

This is our second dialog. We will focus today on how we can better define our vital national interests.

In doing our homework, both Senator CLELAND and I have been doing a lot of reading and pouring over quite a few books and articles and commentaries and reports and legislation and speeches and position papers and the like. If it was printed, we read it.

We have also been seeking the advice and counsel of everybody involved—in my case, the marine lance corporal about to deploy to Kosovo, to the very serious and hollow-faced old gentleman I visited at a Macedonian refugee camp, as well as foreign dignitaries and the military brass we admire and listen to as members of the Armed Services Committee, and all of the current and former advisors and experts and think tank dwellers and foreign policy gurus and intelligence experts. Needless to say, our foreign policy and national security homework universe is ever expanding and apparently without end. I hope I didn't leave anybody out.

We both now have impressive bibliographies that we can wave around and put in the RECORD and we can recommend to our colleagues to prove that our bibliography tank, as it were, is pretty full. We have very little or no excuse if we are not informed.

There was another book I wanted to bring to the attention of my colleagues. Its title is ''Going for the Max.'' It involves 12 principles for living life to the fullest, written by our colleague and my dear friend, with a most appropriate and moving foreword from the Senate Chaplain, Dr. Lloyd Ogilvie. This is a very easy and enjoyable read with a very inspirational message.

Chapter 10 of MAX's book states—and this is important—that success is a team effort, that coming together is a beginning, keeping together is progress, and working together is a success.

That is a pretty good model for our efforts today and a recipe for us to keep in mind in this body as we try to better fulfill our national security obligations and to protect our individual freedoms.

Thank you and well done, to my distinguished friend.

Senator CLELAND, in his remarks, will quote Owen Harries, editor of the publication, the National Interest. He will point out the need for restraint in regard to exercising our national power. Editor Harris warned—and this is what Senator CLELAND will say—

It is not what Americans think of the United States but what others think of it that will decide the matter.

When we are talking about ''matter,'' the ''matter'' in this case is stability and successful foreign and national security policy. I could not agree more. Senator CLELAND will go on to quote numerous statements from foreign leaders and editorials from leading international publications and commentaries from respected observers around the globe, from our allies and from the fence sitters and our would-be adversaries.

Sadly, I have to tell my colleagues that all were very critical of U.S. foreign policy. The basic thrust of the criticism, as described by Senator CLELAND—and he will be saying this. Again, I apologize that I started first. In the order of things, we are sort of reversing this. I am giving him a promo, if that is okay. At any rate, Senator CLELAND will state:

The United States has made a conscious decision to use our current position of predominance to pursue unilateralist foreign and national security policies.

Senator CLELAND is right. Dean Joseph S. Nye of the Kennedy School of Government and former U.S. Assistant Secretary of Defense for International Security Affairs warns about the CNN effect in the formulation and conduct of our foreign policy; the free flow of information and the shortened news cycles that have a huge impact on public opinion, and placing some items at the top of the public agenda that might otherwise warrant a lower priority; diverting attention from the A list of strategic issues of vital national security. What am I talking about? What does this criticism really suggest?

We need to take the spin off. We need to take off our rose-colored, hegemonic glasses and take a hard look at the world and what the world thinks of us. I have a suggestion. It would only take Senators 10 minutes a day. Every Member of the Senate can and should receive what are called ''Issue Focus Reports.'' These are reports on foreign media reaction to the world issues of the day. They are put out by the State Department. We at least should be aware of what others think of us and our foreign policy. Unfortunately and sadly, it is not flattering.

For instance, the February 24 Issue Focus detailed foreign commentary from publications within our NATO allies, those who comprised Operation Allied Force in Kosovo, headlines of 39 reports from 10 countries. If my colleagues will bear with me a moment, these are some of the headlines. This is the Issue Focus I am talking about. It is a very short read. Senators could have that or could have this report at their disposal every week. Again, these are leading publications—some liberal, some conservative, some supportive of the United States and some not. Just as a catch-as-catch-can summary, listen to the headlines:

Kosovo Unrest—A Domino Effect; Another War?; Wither Kosovo?; Holding Back The Tide Of Ethnic Cleansing; Losing The Peace; By The Waters of Mitrovica; West Won The War, But Now Faces Losing The Peace; Holding Fast In The Kosovar Trap; Speculation On U.S. Domination In The Balkans; Whoever Believed In Multi-Ethnic Kosovo; Kosovo Calculations; The U.S. Is Playing With Fire; The West Is Helpless In Kosovo; Mitrovica, The Shadow Of The Wall Is Back; Military Intervention Against Serbia A Mistake; U.S. and Europe Are Also Clashing In Mitrovica; Kosovo Chaos Is A Trap For NATO; A Failure That Burns; The Difficult Peace.

It goes on and on.

This kind of reading would help us a great deal in understanding how others really think of us. The March 24 Issue Focus, based on 49 reports from leading newspapers and publications in 24 countries, assessed the U.S. and NATO policy 1 year after Operation Allied Force in the bombing of Kosovo. Summed up, the articles conclude it is time to ask some hard questions. Some unsettling headlines—again, this is a wide variety of publications from all ideologies and the whole political spectrum:

A War With No Results; No End To The Kosovo Tragedy; Europe's Leaders Warned Of A New Crisis; The West Fiasco In Kosovo; Halfway Results; A Year Later: Where Do We Stand; A Victory Gambled Away; No Sign Of Will For Peace; Making Progress By Moving Backwards In The Balkans.

Again, it goes on and on.

I don't mean to suggest that we should base our foreign policy on foreign headlines or perceived perception with regard to criticism in foreign countries. If we take the spin off, I think a case can be made that we are seeing a world backlash against U.S. foreign policy no matter how well-intentioned.

A timely article last month by Tyler Marshall and Jim Mann of the Los Angeles Times summarized it very well when they said:

The nation's prominence as the world's sole superpower leaves even allies very uneasy. They fear Washington—

By the way, I certainly include the Congress—

has lost its commitment to international order. America's dominant shadow has long been welcomed in much of the world as a shield from tyranny, a beacon of goodwill, an inspiration of unique values. But, ten years after the collapse of Communism left the United States to pursue its interests without a world rival, that shadow is assuming a darker character. In the State Department, it is called the hegemony problem, a fancy way of describing the same resentment that schoolchildren have for the biggest, toughest, richest and smartest kid in school.

The Marshall and Mann article goes on to say that America is suffering from a bad case of ''me first,'' that during the administration years we have seen a lot of focus and it has been on new objectives, pressing American commercial interests, the championing of democracy—certainly nothing wrong with that—and then the intervention, militarily, to protect human rights. They state the goals that concern the foreign leaders are less than the manner in which they have been pursued, a manner that appears inconsistent and

sporadic and capricious. The article cites very serious backlash. Thirty-eight nations rallied to fight Iraq in 1991. Only Britain answers to the call today. Today, the French—our oldest ally—along with China, India, and Russia, have all discussed independently, or in consultation, ways to counter the balance of the enormity of American power.

Japan is making plans to develop an independent military capability. In Europe, pro-Americanism is on the wane. European leaders cut their teeth on the protests of the 1960s, not the American aid packages of the 1950s. The situation in Russia is especially perilous with Russians seeing secondhand treatment—by their definition—with the U.S. in regard to their continued economic morass, NATO expansion, Kosovo, and the American condemnation of Moscow's war against Chechnya.

Under the banner of the law of unintended effects, Washington Post columnist Charles Krauthammer opined the cost of our occupancy of Bosnia and Kosovo which has already cost tens of billions of dollars, drained our defense resources, and strained a hollow military which is charged with protecting vital American strategic interests in such crises areas as the Persian Gulf, the Taiwan Strait, and also the Korean peninsula. But he cited another cost, as he put it, more subtle and far heavier. He said that Russia has just moved from the democratically committed, if erratic, Boris Yeltsin to the dictatorship of the law, as promised by the new President, former KGB agent Vladimir Putin. I have his article. It is called ''The Path to Putin.'' I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PATH TO PUTIN

(By Charles Krauthammer)

In late February, as the first anniversary of our intervention in Kosovo approached, American peacekeepers launched house-to-house raids in Mitrovica looking for weapons. They encountered a rock-throwing mob and withdrew. Such is our reward for our glorious little victory in the Balkans: police work from which even Madeleine K. Albright, architect of the war, admits there is no foreseeable escape. (''The day may come,'' she wrote on Tuesday, ''when a Kosovo-scale operation can be managed without the help of the United States, but it has not come yet.'')

The price is high. Our occupations of Kosovo and Bosnia have already cost tens of billions of dollars, draining our defense resources and straining a military (already hollowed out by huge defense cuts over the last decade) charged with protecting vital American strategic interests in such crisis areas as the Persian Gulf, the Taiwan Strait and the Korean Peninsula.

But there is another cost, more subtle and far heavier. Russia has just moved from the democratically committed, if erratic, Boris Yeltsin to the ''dictatorship of the law'' promised by the new president, former KGB agent Vladimir Putin. Putin might turn out to be a democrat, but the man who won the presidency by crushing Chechnya will more likely continue as the national security policeman of all the Russias.

What does that have to do with Kosovo? ''Without Kosovo, Putin would not be Russian president today,'' says Dimitri Simes, the Russia expert and president of the Nixon Center.

The path from Kosovo to Putin is not that difficult to trace. It goes through Chechnya. Americans may not see the connection, but Russians do.

Russians had long been suffering an ''Afghan-Chechen syndrome'' under which they believed they could not prevail in local conflicts purely by the use of force. Kosovo demonstrated precisely the efficacy of raw force.

Russians had also been operating under the assumption that to be a good international citizen they could not engage in the unilateral use of force without the general approval of the international community. Kosovo cured them of that illusion.

And finally, Russia had acquiesced in the expansion of NATO under the expectation and assurance that it would remain, as always, a defensive alliance. Then, within 11 days of incorporating Hungary, Poland and the Czech Republic, NATO was launching its first extraterritorial war.

The Russians were doubly humiliated because the Balkans had long been in their sphere of influences with Serbia as their traditional ally. The result was intense anti-American, anti-NATO feeling engendered in Russia. NATO expansion had agitated Russian elites; Kosovo inflamed the Russian public.

Kosovo created in Russia what Simes calls a ''national security consensus:'' the demand for a strong leader to do what it takes to restore Russia's standing and status. And it made confrontation with the United States a badge of honor.

The dash to Pristina airport by Russian troops under the noses of the allies as they entered Kosovo was an unserious way of issuing the challenge. But the support this little adventure enjoyed at home showed Russian leaders the power of the new nationalism.

The first Russian beneficiary of Kosovo was then-Prime Minister Yevgeny Primakov. But it was Prime Minister Putin who understood how to fully exploit it. Applying the lessons of Kosovo, he seized upon Chechen provocations into neighboring Dagestan to launch his merciless war on Chechnya. It earned him enormous popularity and ultimately the presidency.

One of Putin's first promises is to rebuild Russia's military-industrial complex. We are now saddled with him for four years, probably longer, much longer.

The Clinton administration has a congenital inability to distinguish forest from trees. It obsesses over paper agreements, such as the chemical weapons treaty, which will not advance to American interests one iota. It expends enormous effort on Somalia, Haiti, Bosnia and Kosovo, places of (at best) the most peripheral interest to the United States. And it lets the big ones slip away.

Saddam Hussein is back building his weapons of mass destruction. China's threats to Taiwan grow. The American military is badly stretched by far-flung commitments in places of insignificance. Most important of all, Russia, on whose destiny and direction hinge the future of Eastern Europe and the Caspian Basin, has come under the sway of a cold-eyed cop, destroyer of Chechnya and heir to Yuri Andropov, the last KGB graduate to rule Russia.

Such is the price of the blinkered do-goodism of this administration. We will be paying the price far into the next.

Mr. ROBERTS. Charles Krauthammer points out in the article—and I will read a little of it—that, basically, what the Russians thought was the path from Kosovo to Putin is not that difficult to trace. It goes through Chechnya.

Americans may not see the connection, but the Russians do. The Russians have been operating under the assumption that to be a good international citizen, they could not engage in the unilateral use of force without the general approval of the international community. Well, Kosovo certainly cured them of that illusion. Finally, Russia acquiesced in the expansion of NATO under the expectation and assurance that it would remain always a defensive alliance. I am not arguing the pros and cons of that, but simply the reaction in Russia. Russians were doubly humiliated because the Balkans had long been in their sphere of influence, with Serbia as their traditional ally. The result was an intense anti-American, anti-NATO feeling engendered in Russia, and NATO expansion had really agitated the Russian elites, and Kosovo inflamed the Russian public.

So Kosovo created what has been called a national security consensus. The demand for a strong leader to do what it takes to restore Russia's standing and status made the confrontation with the United States a badge of honor. I will tell you, in going to Moscow and talking with Russian leaders regarding the very important cooperative threat reduction programs that happened to come under the jurisdiction of my subcommittee, you get a lecture on Kosovo for a half hour even before you have a cup of coffee. So this article has some merit.

In regard to Mr. Krauthammer's article:

> The first Russian beneficiary of Kosovo was then-Prime Minister Primakov. But it was Prime Minister Putin who understood how to fully exploit it. Applying the lessons of Kosovo, he seized upon the Chechen provocations into neighboring Dagestan to launch his merciless war on Chechnya. It earned him enormous popularity and ultimately the presidency.
>
> We are now saddled with him for four years, probably longer, much longer.

We hope the man without a face—which is how some describe Putin—we hope we can work with him and build a positive relationship. I think under the law of unintended effects, this is a good example.

In China, obviously, the political wounds fester in the wake of the U.S. bombing of the Chinese Embassy in Belgrade; the Taiwan issue, charges of espionage, and the criticism of human rights; and continued controversy over whether or not Congress will approve a trading status that will result in the U.S. simply taking advantage of trade concessions that the Chinese have made to us.

In Latin America, the lack of a so-called fast-track authority and U.S. trade policy is muddled. You can drive south into Central America and into trade relations with our competitors in the European Union. My friend from

Nebraska, Senator HAGEL, who will join us in about an hour, put it this way:

It worries me, first, because most of us are not really picking this up on our radar—this sense that we don't care about what our trading partners or allies think. It is going to come back and snap us in some ways. It will be very bad for this country.

Well, the criticism from the Marshall and Mann article becomes very harsh when they cite why the U.S. has become so aloof. I am quoting here:

* * * a President who engages only episodically on international issues and too often has failed to use either the personal prestige or the power of his office to pursue key foreign policy goals. * * * a Congress that cares little about foreign affairs in the wake of the Cold War and seems to understand even less. * * * a poisonous relationship between the two branches of our Government putting partisanship over national interests * * * an American public inattentive to world affairs and confused by all of the partisan backbiting now that the principal reference point—the evil of communism—has all but vanished as a major threat.

Indeed, that is a pretty harsh assessment. Aside from all the criticism and 20/20 hindsight—and it is easy to do that, trying to chart a well-defined foreign policy course is more complicated and difficult today than ever before. Both Senator CLELAND and I understand that. As chairman of the newly created Emerging Threats and Capabilities Subcommittee of the Senate Armed Services Committee, it seems as if we have a new emerging threat at our doorstep almost every day. I am talking about the proliferation of weapons of mass destruction, rogue nations, ethnic wars, drugs, and terrorism.

Concluding our second hearing on the subcommittee this session, and again asking the experts, ''What keeps you up at night?'' the answer came back: ''Cyber attacks and biological attacks'' from virtually any kind of source, and the bottom line was not if, but when.

So it is not easy, but if we are worried about proliferation of weapons of mass destruction, we should also be worried about the proliferation of overall foreign policy roles, not to mention the role the U.S. should play in the world today.

Some may say events of the day will determine our strategy on a case-by-case basis. That seems to be the case. But I say that is a dangerous path, as evidenced by adversaries that did not or will not believe we have the will to respond.

Former National Security Adviser, Gen. Brent Scowcroft, put it this way in a speech at the Brookings Institution National Forum, and he said this in response to some questions:

The nature of our approach to foreign policy also changed from, I would say, from foreign policy as a continuing focus of the United States, which it had been for the 50 years of the Cold War, to an episodic attention on the part of the United States, and thus without much of a theme, and further to that, a foreign policy whose decisions were heavily influenced by polls, by what was popular back home or what was assumed to be popular.

General Scowcroft went on to say:

So at a period when we should have been focusing on structures to improve the possibility that we could actually make some changes in the way the world operated, and some improvements, we have frittered away the time. I think never has history left us such a clean slate as we had in 1991. And we have not taken advantage of it.

One point on looking ahead from here. I think we have begun engaging on a fundamental transformation of the international system with insufficient thought.

We, NATO, President Clinton, the U.N. Secretary General, are moving to replace the Treaty of Westphalia, replacing the notion of the sovereignty of the nation-state with what I would call the sovereignty of the individual and humanitarianism. That is a profound change in the way the world operates. And we're doing it with very little analysis of what it is we're about and how we want this to turn out.

Evidenced by the Charles Krauthammer article.

Again I quote from the general:

In Kosovo, just for example, we conducted a devastating bombing of a country in an attempt to protect a minority within that country. And, as a result, we're now presiding over reverse ethnic cleansing. What's the difference between Kosovo and Chechnya?

That is a question not many of us want to ponder.

How many people must be placed in jeopardy to warrant an invasion of sovereignty? Where? By whom? How does one set priorities among these kind of crises?

And, events of the day, again dominated by the so-called CNN effect, ignore the same kind of core questions posed by General Scowcroft and reflected again in an article by Doyle McManus the Washington Bureau Chief of the Los Angeles Times: When should the United States use military power?

President Clinton has argued in the Clinton Doctrine that Americans should intervene wherever U.S. power can protect ethnic minorities from genocide. I would add a later UN speech seemed to indicate a backing off from that position.

How will the United States deal with China and Russia, the two great potentially hostile powers?

What is the biggest threat to our nation's security and how should the U.S. respond? Weapons of mass destruction head the list of course, but the President has added in terrorism, disease, poverty, disorder to the list.

I know about the Strategic Concept of NATO, when that was passed during the 50-year anniversary last spring in Washington. Those of us who read the Strategic Concept and all of the missions that entailed—moving away from a collective defense—we were concerned about that. We asked for a report as to whether that obligated the United States to all of these missions.

Finally, we received a report from the administration of about three pages. The report said we are not obligated and not responsible. If we are not responsible for the Strategic Concept of NATO, what are we doing adopting it?

When the U.S. acts, should it wait for the approval of the United Nations, seek the approval of our allies, or strike out on its own?

However, my colleagues, the biggest question remains and it was defined well by retired Air Force Brigadier General David Herrelko who wrote in the Dayton Daily News recently:

''The United States needs to get a grip on what our national interests are, what we stand for and what we can reasonably do in the world before we can size our military forces and before we send them in harms way. We must hammer out, in a public forum, just what our national priorities are.'' He says, and I agree, we cannot continue adrift. Consider this retired military man's following points:

More Americans have died in peacekeeping operations (Lebanon, Somalia, Haiti, Bosnia) than in military actions (Iraq, Panama, Grenada and Yugoslavia).

We have a president seeking United Nations approval for military intervention but skipping the dialogue with Congress.

I might add, the Congress skips the dialog with the President.

We commit our military forces before we clearly state our objectives.

We gradually escalate hostilities and we leave standing forces behind.

Some 7,000 now in Kosovo, and the peacekeepers. When there was no peace, they became the target.

General Herrelko ends his article with a plea: ''We are starved for meaningful dialogue between the White House and the Congress.''

I agree Mr. President and would add we are starved for dialogue here in the Senate as well and that is why we are here.

And, as Senator CLELAND has pointed out, our goal is not to achieve unanimity on each and every issue but to at least contribute to an effort to focus attention on our challenges instead of reacting piecemeal as events of the day take place.

And, goodness knows even if the foreign policy stadium is not full of interested spectators, we do have quite an array of players. LA Times Bureau Chief McManus has his own program:

Humanitarian interventionists, mostly Democrats and President Clinton with Kosovo being the prime example. Nationalist interventionists, mostly Republicans who would intervene in defense of democracy, trade and military security.

Realists, both Republicans and Democrats

I think Senator CLELAND would be in that category.

skeptical about intervention but wanting the United States to block any concert of hostile powers.

Minimalists, those who think the United States should stay out of foreign entanglements and quarrels and save its strengths for major conflicts.

Richard Haass, former foreign policy advisor in the Bush administration and now with the Brookings Institution, has defined the players in the foreign

policy program much along the same lines as Senator CLELAND did in his opening remarks during our first forum last month:

Wilsonians who wish to assist other countries achieve democracy;

Economists, who wish to promote trade, prosperity and free markets;

Realists, who wish to preserve an orderly balance of power without worrying too much what kind of states are doing the balancing;

Hegemonists who want to make sure the United States keeps its status as the only superpower;

Humanitarians, who wish to address oppression, poverty, hunger and environmental damage;

And, Minimalists, who wish to avoid spending time or tax dollars on any of these matters.

I'm not sure of any of my colleagues would want to be identified or characterized in any one of these categories but again the key question is whether or not the members of this foreign policy posse can ride in one direction and better define our vital national interests and from that definition establish priorities and a national strategy to achieve them.

Fortunately, as Senator CLELAND has pointed out, some very distinguished and experienced national security and foreign policy leaders have already provided several road maps that make a great deal of sense. What does not make a great deal of sense is that few are paying attention.

Lawrence Korb, Director of Studies of the Council on Foreign Relations, in a military analysis published in a publication called ''Great Decisions'' has focused on the Powell Doctrine named after retired Joint Chiefs Chairman Colin Powell, citing the dangers of military engagement and the need to limit commitments to absolutely vital national interests. On the other hand, the sweeping Clinton Doctrine emphasizes a global policing role for the United States.

How do we reconcile these two approaches?

I am not sure there is only one yellow brick foreign policy road but there are several good alternatives that have been suggested:

First, I am going to refer to what I call the ''Old Testament'' on foreign policy in terms of vital national interests. This is the Commission on America's National Interests, 1996.

Second, a national security strategy for a new century put out by the White House this past December. If you are being critical, or suggesting, or if you have a different approach than the current policy, as I have been during my remarks, you have an obligation to read this. The White House put this out as of December of 1999.

Third, adapting U.S. Defense to Future Needs by Ashton Carter former Assistant Secretary of Defense for International Security in the first Clinton administration and currently professor of science and international affairs at Harvard.

We had him testify to this before the Emerging Threats Subcommittee just a month ago.

Fourth, defining U.S. National Strategy by Kim Holmes and Jon Hillen of the Heritage Foundation, a detailed summary of threats confronting us today with appropriate commentary about their priorities.

Fifth, transforming American Alliances by Andrew Krepinevvitch of the Center for Strategic and Budgetary Assessments.

He has been of real help to us in regard to the Emerging Threats subcommittee, and also the full Committee on Armed Services.

Sixth, a highly recommended article ''Back to Basics: U.S. Foreign Policy for the Coming Decade,'' by James E. Goodby, a senior fellow at the Brookings Institution and former Ambassador to Finland and Kenneth Wisebrode, Director of the International Security Program at the Atlantic Council of the United States.

In this regard, Messrs. Goodby and Weisbrode have summarized the concerns of Senator CLELAND and myself very well when they said:

The most common error of policymakers is to fail to distinguish among our levels of interest, leading to an over commitment to higher level interests. In other words, strategic or second tier interests, if mishandled, can threaten vital interests. But, strategic interests, if well understood and acted upon, can support vital interests.

Goodby and Weisbrode do us a favor by following the example of others in prioritizing our vital national security interests:

First and vital, homeland defense from threats to well being and way of life of the American people. I can't imagine anyone would have any quarrel with that.

Second and strategic, I am talking about peace and stability in Europe and northeast Asia and open access to our energy supplies.

Third, and of lesser interest, although it is of interest, stability in South Asia, Latin America, Africa, and open markets favorable to the United States and to world prosperity.

The authors suggest how to accomplish these goals with what they call three essential pieces of foreign policy balance:

First, stability and cohesion in Europe and between the European Union and the United States; second, mature and effective relations among China, Russia, and the West to include first among all others, a regular forum to oversee the reduction of the risk of nuclear weapons; and third, systematic patterns of consultation and policy coordination of the States benefiting from the global economy and positive relations between those States and the developing world.

The authors also suggest the means to their ends by looking ahead and stressing the need for eventual NATO and Russian cooperation and stability, the need for a similar organization and effort between the United States and China, Japan, Russia, and Korea, and lastly, American support for the United Nations.

In a self-acknowledged understatement, they state this is going to be a hard and tedious task. This is not easy. But it is absolutely necessary.

Now, Mr. Goodby and Mr. Weisbrode are not critical per se, but they issue a warning and this is what we are trying to bring to the attention of the Senate. It is central to what Senator CLELAND and I are trying to accomplish with these foreign policy and national security dialogs.

The public perception and the private reality suggest worrisome disorganization and a certain degree of impatience with a foggy conceptual foreign policy framework. It is time to return to the basic elements of the American role in the world and to raise the public understanding of them.

American strategic planners and policymakers cannot afford to be arbitrarily selective about where and when to engage U.S. power. This would make our foreign policy aimless and lose the support of the American people.

They continue:

We should set out each of America's interests and how they best may be achieved with the cooperation of other powers. However, this cannot take place until the executive and legislative branches of government resurrect the workable partnership in foreign affairs that once existed but exists no more.

And Senator CLELAND, my colleagues, that is why we are here today and that is why we are involved in this forum. In my personal view, we are starved for meaningful foreign policy and national security dialog between the White House and the Congress and within the Congress. The stakes are high.

I recall well the meeting in Senator CLELAND's office between Senator CLELAND, myself, and Senator SNOWE, worried about our involvement in the Balkans. I had an amendment, we had an amendment; we passed both amendments, setting out guidelines that the administration would respond, saying that before we spend money in regard to the defense appropriations or in the authorization bill, hopefully we can establish a better dialog, trying to figure out what our role was in regard to our constitutional responsibilities, I say to my good friend, without having to come to the floor with appropriations bills and have an amendment and say you can't spend the money for this until you explain this. That is no way to operate.

It seems to me we can do a much better job. The stakes are high.

As Carl Sandberg wrote of Americans: Always there arose enough reserves of strength, balances of sanity, portions of wisdom to carry the Nation through to a fresh start with ever renewing vitality.

I hope this dialog and these discussions, all of the priority recommendations we have had from experts in the field, will help us begin that fresh start. We cannot afford to do otherwise.

I ask unanimous consent to have printed in the RECORD a chart that outlines and prioritizes the vital national

security interests of the United States as recommended by the many experts and organizations I have discussed earlier in my remarks. This chart was prepared by Maj. Scott Kindsvater, an outstanding pilot in the U.S. Air Force and a congressional fellow in my office.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFINING U.S. NATIONAL INTEREST

| Source | Vital Interests | Important Interests | Other Interests |
|---|---|---|---|
| "A National Security Strategy for a New Century"; The White House; 1/5/2000. | 1. Physical security of our territory and that of our allies. 2. Safety of our citizens. 3. Economic well-being of our society. 4. Protection of critical infrastructures from paralyzing attack (energy, banking and finance, telecommunications, transportation, water systems, and emergency services). | 1. Regions where we have sizable economic stake or commitments to allies. 2. Protecting global environment from severe harm. 3. Crises with a potential to generate substantial and highly destabilizing refugee flows. | 1. Responding to natural and manmade disasters. 2. Promoting human rights and seeking to halt gross violations of those rights. 3. Supporting democratization, adherence to the rule of law and civilian control of the military. 4. Promoting sustainable development and environmental protection. |
| "Americans and the World: A Survey at Century's End," Foreign Policy, Spring 1999. | American public's foreign policy priorities—1.—Prevent the spread of nuclear weapons. 2. Stop the influx of illegal drugs into U.S. 3. Protect American jobs. 4. Combat international terrorism. 5. Secure adequate energy supplies.—(American foreign policy leadership priorities)—1. Prevent the spread of nuclear weapons. 2. Combat international terrorism. 3. Defend the security of U.S. allies. 4. Maintain superior military power worldwide. 5. Fight world hunger. | | |
| "America's National Interests," Commission on America's National Interests; 7/1996. | 1. Prevent, deter, and reduce the threat of nuclear, biological, and chemical (NBC) weapons attacks on the United States. 2. Prevent the emergence of a hostile hegemon in Europe or Asia. 3. Prevent the emergence of a hostile major power on U.S. borders or in control of the seas. 4. Prevent the catastrophic collapse of major global systems: trade, financial markets, supplies of energy, and environmental. 5. Ensure the survival of US allies. | (Extremely Important)—1. Prevent, deter, and reduce the threat of the use of nuclear or biological weapons anywhere. 2. Prevent the regional proliferation of NBC weapons and delivery systems. 3. Promote the acceptance of international rules of law and mechanisms for resolving disputes peacefully. 4. Prevent the emergence of a regional hegemon in important regions, such as the Persian Gulf. 5. Protect U.S. friends and allies from significant external aggression. 6. Prevent the emergence of a reflexively adversarial major power in Europe or Asia. 7. Prevent and, if possible at reasonable cost, end major conflicts in important geographic regions. 8. Maintain a lead in key military-related and other strategic technologies (including information and computers). 9. Prevent massive, uncontrolled immigration across U.S. borders. 10. Suppress, contain, and combat terrorism, transnational crime, and drugs. 11 Prevent genocide. | Just Important—1. Discourage massive human rights violations in foreign countries as a matter of official government policy. 2. Promote pluralism, freedom, and democracy in strategically important states as much as feasible without destabilization. 3. Prevent and, if possible at low cost, end conflicts in strategically insignificant geographic regions. 4. Protect the lives and well-being of American citizens who are targeted or taken hostage by terrorist organizations. 5. Boost the domestic output of key strategic industries and sectors (where market imperfections may make a deliberate industrial policy rational). 6. Prevent the nationalization of U.S.-owned assets abroad. 7. Maintain an edge in the international distribution of information to ensure that American values continue to positively influence the cultures of foreign nations. 9. Reduce the U.S. illegal alien and drug problems. 10. Maximize U.S. GNP growth from international trade and investment. |
| "Adapting to U.S. Defence to Future Needs," Ashton B. Carter, Survival, Winter 1999–2000. | A-List: Potential future problems that could threaten U.S. survival, way of life and position in the world; possibly preventable—1. Danger that Russia might descend into chaos, isolation and aggression. 2. Danger that Russia and the other Soviet successor states might lose control of the nuclear, chemical and biological weapons legacy of the former Soviet Union. 3. Danger that, as China emerges, it could spawn hostility rather than becoming cooperatively engaged in the international system. 4. Danger that weapons of mass destruction (WMD) will proliferate and present a direct military threat to U.S. forces and territory. | B-List: Actual threat to vital U.S. interests; deterrable through ready forces—1. Major-Theater War in NE Asia. 2. Major Theater War in Southwest Asia. | C-List Important problems that do not threaten vital U.S. interests—1. Kosovo. 2. Bosnia. 3. East Timor. 3. Rwanda. 4. Somalia. 5. Haiti. |

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Georgia.

Mr. CLELAND. Mr. President, I cannot express strongly enough what an honor it is to be on the floor of the Senate and listen to my distinguished colleague talk about the need for a meaningful dialog on a subject that often gets put down at the bottom of the list when it comes to public issues. I am reminded of a line from one of Wellington's troops after the battle at Waterloo, after the battle was won, that in time of war, and not before, God of the soldier, men adore; but in time of peace, with all things righted, God is forgotten and the soldier slighted.

Unfortunately, I think my dear colleague, Senator PAT ROBERTS, and I have sensed that the vital interests of the United States, the interests that cause us to go to war, the interests that compel us to fight for our vital national interests, these basic fundamental principles have been lost in the shuffle. Somehow they have been slighted and somehow the issue of foreign policy and defense has been shoved to the background. We have lost sight of the basis of who we are and what we are about as we go into the 21st century, which is why we have tried through this dialog to call attention to this issue.

We have some wonderful colleagues joining in our dialog, including my fellow Vietnam veteran, Senator KERREY, and Senator HAGEL, as well as Senator HUTCHINSON and Senator KYL.

For a few weeks, I wondered whether I was a little bit out of touch and wondered whether or not this dialog on American foreign policy and global reach was something that was out of touch with what was going on in the world. I went back home the last few days and in my own hometown paper in Atlanta I came across an article, a New York Times piece, Anti-Americanism Growing Across Europe.

Hello. Good morning. I realized that what I was seeing in a daily newspaper was what I was attempting to engage here in terms of a perspective on our global reach, a sense that we were overcommitted in the world and yet underfunded, a sense of mismatch between our ends and our means to achieve those ends. I realized we really were on target.

In my State, we say that even a blind hog can root up an acorn every now and then. I think my distinguished colleague and I from Kansas have rooted up an acorn.

We are on to something. That is a reason why I am strengthened in pursuing this dialog, and I am delighted we will have additional Senators entering into this dialog because unless we ourselves begin to define who we are as a nation, what we want out of our role as a nation, and where we want to go and how we exercise our power, unless we decide it, it will occur by happenstance. We will move from crisis to crisis. We will not have a plan and we will end up in places in the world where we know not of what we speak.

One of the quotes I have come across, one of the lines that continues to reinforce my view of my own concern and caution about America's expanded role in the world, is from our first dialog back in February when Owen Harries, editor of the National Interests, summed up his views on the appropriate approach for the United States in today's world with the following comments: I advocate restraint because every dominant power in the last four centuries that has not practiced it, that has been excessively intrusive and demanding, has ultimately been confronted by a hostile coalition of other powers. Americans may believe that their country, being exceptional, need have no worries in this respect. I do not agree. It is not what Americans think of the United States but what others think of it that will decide the matter. Anti-Americanism is growing across Europe. The distinguished Senator from Kansas has accumulated, in a shocking way, some headlines from 40 or 50 newspapers among our allies and our friends, questioning our role, particularly in the Balkans, but questioning our exercise of power, as it were.

The foreign perspective is not one to which we generally devote much attention in the Congress, certainly after the cold war is over, but our attention to foreign affairs has been slight. We do not really devote much attention to foreign affairs and consideration of our foreign policy options unless we are threatened.

I am delighted Senator ROBERTS is sitting as the chairman of the Emerging Threats Subcommittee in the Armed Services Committee. He has his

eye on the ball, certainly an emerging ball in terms of threats to our country. I think the overall threat is that we do not realize one could occur now that the cold war is over.

I think, also, one of the emerging threats, from my point of view, is that we will overcommit and overexpand and overreact and, instead of being only a superpower working with others and sharing power, we will wind up imposing—by default, almost, in the power vacuums around the world—a pax Americana that cannot be sustained by the will of the people in this country—again, a mismatch between means and ends.

But it is important, as Mr. Harries suggests, to focus on this issue.

I have spent some time, over recent months, as has the distinguished Senator from Kansas, reviewing what foreign opinion makers and leaders are saying about the United States. While we may think, as I do, that our country has not made a clear choice about our global role, the view from abroad is very different. Many people think we have chosen the path we are now on.

A Ukrainian commentator, in the Kiev newspaper Zerkalo Nedeli, wrote in April of last year:

Currently, two opinions are possible in the world— the U.S. opinion and the wrong opinion. . . .

He said the U.S.

. . . has announced its readiness to act as it thinks best, should U.S. interests require this, despite the United Nations. And let those whose interests are violated think about it and draw conclusions. This is the current world order or world disorder.

That, from Kiev.

The influential Times of India editorialized in July of last year:

New Delhi should not lose sight of the kind of global order the U.S. is fashioning. NATO's policies towards Yugoslavia and the U.S.-led military alliance's new Strategic Concept are based on the degradation of international law and a more muscular approach to intervention. Such a trend is certainly not in India's interest.

So India has concluded: Why don't we go it alone? Why don't we develop ourselves as a nuclear power?

The President of Brazil was quoted on April 22 of last year in an interview with a Sao Paulo newspaper as to his views about the United States: While President Cardoso was generally sympathetic to the United States and supportive of good bilateral relations between our two countries, the President of Brazil nonetheless expressed certain misgivings about our approach to international relations.

He said:

The United States currently constitutes the only large center of political, economic, technologic, and even cultural power. This country has everything to exert its domain on the rest of the world, but it must share it. There must be rules, even for the stronger ones. When the strongest one makes decisions without listening, everything becomes a bit more difficult. In this European war, NATO made the decision, but who legalized it? That's the main problem. I am convinced more than ever that we need a new political order in the world.

I think I am correct that Jack Kennedy once indicated we would seek a world where the strong are just and the weak preserved. Because we are strong now, I think we have to have an inordinate sense of being just. But these are all voices from countries that have not traditionally been close to the United States. Let's look, then, at some of our NATO allies, nations with whom we presumably share the closest relationships and common interests.

In a commentary from February of last year in Berlin's Die Tageszeitung, a German writer observes:

There is a growing number of people with more and more prominent protagonists who are at odds with American supremacy and who are inclined to see the action of the State Department as a policy of interests. And Washington is offering no reason to deny the justification of these reservations. As unilateral as possible and as multilateral as necessary—that's the explicit maxim under which U.S. President Bill Clinton has pursued his foreign and defense policies in the last 2 years.

From Italy, an Italian general expressed the following view in the December 1999 edition of the Italian geopolitical quarterly LiMes:

The condition all the NATO countries as a whole find themselves in is closer to the condition of vassalage with respect to the United States than it is to the condition of alliance. NATO is not able to influence the policy of the United States because its existence in effect depends on it. No member countries are able to resist the American pressures because their own resources are officially at the disposal of everybody and not just the United States.

What evidence do our foreign friends cite for such concerns? The influential left-of-center Dutch daily NRC Handelsblad wrote last October:

The U.S. Senate's rejection of the Comprehensive Test Ban Treaty does not just represent a heavy defeat for President Clinton. Far more important are the consequences for world order of treaties designed to stop the proliferation of weapons of mass destruction and hence boost world security. . . .

According to this newspaper in the Netherlands:

Unfortunately, the decision fits in with a growing tendency on the part of U.S. foreign policy to place greater emphasis on the United States' own room for maneuver and less on international cooperation and traditional idealism.

In a similar vein, the Times of London carried a commentary last November. It said:

The real fear is of an American retreat, not to isolationism, but to unilateralism, exacerbated at present by the post-impeachment weakness of President Clinton and his standoff with the Republican Congress. That's shown by the Senate's rejection of the Comprehensive Test Ban Treaty, the stalling of free trade initiatives, and the refusal to pay arrears to the United Nations. The U.S. is seen as wayward and inward-looking.

While there are some exceptions, the majority of statements I looked at expressed the view the United States has indeed made the conscious decision to use our current position of predominance to pursue unilateralist foreign and national security policy.

When I first came to Washington 30-some-odd years ago as a young intern, I found out there could not be a conspiracy here. We are not that well organized. There cannot be a unilateralist conspiracy in the world by the United States—we are not that well organized. What has evolved is a sense in which we have moved from crisis to crisis and looked at power vacuums and said, ''We need to be there.''

I like the notion that General Shelton has about the use of American military power. He says:

We've got a great hammer, but not every problem in the world is a nail.

I do like President Kennedy's insight, too, that there is not necessarily an American solution for every problem in the world.

Yet we act as if there is. If one looks at the outcomes of recent American foreign policy debates, it is easy to see how those viewing us from a distance might come to such a conclusion. Since I have come to the Senate, the U.S. Government through the combined efforts of the executive and the legislative branches—what are, relatively speaking, nondiscussions, I might add—has made the following decisions: Withheld support from the international landmines treaty; rejected jurisdiction by the new international criminal court; been slow to pay off long overdue arrears to the United Nations; rejected the current applicability of international emissions standards set at Kyoto; rejected fast-track international trade negotiating authority for the President; rejected the Comprehensive Test Ban Treaty, apparently committed to a national missile defense system which will violate the ABM Treaty; and established a principle of ''humanitarian intervention'' where national sovereignty can be violated without United Nations sanction under certain circumstances.

My purpose here is not to argue for or against any of these individual positions; for, indeed, I have supported some of them as, indeed, have virtually every Member of the Congress and the administration. But, as far as I know, not one of us has supported them all.

If the Republican congressional majority has been largely responsible for the actions rejecting multilateral commitments and entanglements in the national security sphere, it is my party, the Democrats, who has taken the lead in opposing international trade obligations, and the Democratic administration which has espoused the cause of humanitarian interventions in violation of national sovereignty. In short, the sum total of our actions has been far more unilateral than any of us would have intended or carved out for ourselves.

This is relatively incoherent, and I can see why other nations might view us as more organized than we are.

It is also very damaging to our national interest and is one of the major motives for our efforts to promote this development of a bipartisan consensus

through these floor debates. We have to get back to some basic understanding of who we are and what we are doing in the world.

As was discussed in our first dialog, there are certainly some leading voices among America's foreign policy thinkers who do, indeed, advocate a unilateralist course for America in the post-cold-war era, but not even that group actually believes we have actually embarked upon that course. Very few believe we are willing to invest sufficient resources today to even pursue the somewhat less demanding multilateralist approach which seems to have more support among our foreign policy establishment.

The direct danger to America from this mismatch between means and ends, between our commitments and our forces, between our aspirations and our willingness to pay to achieve them is one of the central concerns for our discussion today and one I will turn to later. However, I want to conclude these opening remarks with an observation about indirect consequences of this situation with respect to the credibility of American foreign policy abroad.

The chief of the research department of the Japanese Defense Agency's National Institute for Defense Studies wrote in March of last year:

(O)pinion surveys in the United States show that people are inclined to think that the United States should bear as little burdens as possible even though the country should remain the leader in the world. This thinking that the United States should be the world's leader but should not bear too much financial burden may be contradictory in context, but is popular among Americans. This serves as a warning to the international community that the United States might get at first involved in some international operations but run away later in the middle of the operations, leaving things unfinished.

Because we do not have a comprehensive strategy, because we do not talk to each other enough, because we do not have a proper dialog, particularly in this body, and because we move from crisis to crisis in our foreign policy and come up with different solutions for different situations without a clear understanding of who we are and where we are going, we are sending a mixed message to even our best friends.

To me, the case is clear: If we are to avoid misunderstandings at home and abroad, if we are to prevent unwanted and unintended conclusions and consequences, as the distinguished Senator from Kansas mentioned, about our objectives, we have to pull together and forge a coherent, bipartisan consensus to guide our country in the uncertain waters of the 21st century. Those who came before us and built this country into the grand land it is today, and those who will inherit it from us in the years ahead deserve no less.

I am honored to yield to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Parliamentary inquiry: I believe I have 1 hour reserved in morning business and that the distinguished Senator from Georgia has 1 hour; is that correct?

The PRESIDING OFFICER. There are 2 hours under the control of both Senators.

Mr. ROBERTS. I inform my colleagues that Senator HUTCHISON of Texas and Senator HAGEL will be taking part, and I think perhaps Senator KERREY will be coming to the floor. Senator HAGEL will be arriving in about 9 minutes. If my distinguished colleague wants to summarize any other comments or perhaps go over the Commission on America's National Interests, I think now is the time to do so, if he is prepared to do that.

Mr. CLELAND. Mr. President, I want to add some additional comments, if that is all right with my distinguished colleague.

Earlier, I spoke about the mismatch between the goals of American foreign policy and the means we employ in achieving them. Whether one espouses a unilateralist or multilateralist approach, or something in between, most of those with a strong interest in American foreign policy have major goals for that policy, whether in preventing the emergence of global rivals or in promoting the spread of democracy, whether in halting the spread of weapons of mass destruction or in protecting human rights. Yet today we devote a little over 1 percent of the Federal budget for international affairs, compared to over 5 percent in 1962 in the middle of the cold war.

Of particular concern to me as a member of the Armed Services Committee, since the 1980s we have gone from providing roughly 25 percent of the budget for national defense to 18 percent today. We have reduced the active-duty armed forces by over one-third but have increased overseas deployments by more than 300 percent. I have often said we have, as a country, both feet firmly planted on a banana peel. We are going in opposite directions. That cannot last. We have a mismatch between our commitments and our willingness to live up to those commitments. We are sending a mixed message abroad.

What is the result of all of this? Newspapers reported that last November, for the first time in a number of years, the U.S. Army rated 2 of its 10 divisions as unprepared for war. Why were they unprepared for war? Because they were bogged down in the Balkans. That was never part of the deal going into the Balkans, that an entire U.S. Army division would be there for an indefinite period of time. No wonder these other two divisions were unprepared for war because they had elements in the Balkans doing something else—not fighting a war, but peacekeeping missions.

The services continue to struggle in meeting both retention and recruiting goals, and the service members and their families with whom I meet and who are on the front lines in carrying out the policies decided in Washington are showing the visible strains of this mismatch between our commitments and our resources. They deserve better from us.

I hope other Senators had an opportunity to watch Senator ROBERTS' discussion of our national interests during our February 24 dialog. If not, I commend my colleagues' attention to those remarks as printed in the CONGRESSIONAL RECORD of that date.

In brief, he stated the opinion, which I share, that in the post-cold-war world, our country has had a hard time in prioritizing our national interests, leading to confusion and inconsistency. He went on to cite the July 1996 report by the Commission on America's National Interests, of which he was a member, along with our colleagues Senators JOHN MCCAIN and BOB GRAHAM and my distinguished predecessor, Sam Nunn.

Of particular relevance to our topic today of defining and defending our national interests, the Commission found:

For the decades ahead, the only sound foundation for a coherent, sustainable American foreign policy is a clear public sense of American national interests. Only a national-interest-based foreign policy will provide priorities for American engagement in the world. Only a foreign policy grounded in American national interests will allow America's leaders to explain persuasively how and why specific expenditures of American treasure or blood deserve support from America's citizens.

As my colleagues will note from the charts I have, the Commission went on to divide our national interests into four categories. They defined ''vital interests'' as those:

Strictly necessary to safeguard and enhance the well-being of Americans in a free and secure nation.

And as Senator ROBERTS has discussed, and you can see on the chart, they found only five items which reached that high standard.

In addition to attempting to identify our national interests, the commission also addressed the key issue of what we should be prepared to do to defend those interests:

For ''vital'' national interests, the United States should be prepared to commit itself to fight, even if it has to do so unilaterally and without the assistance of allies.

But there is a lower priority than that.

Next in priority come ''extremely important interests''—these are not vital; but they are extremely important—defined as those which:

. . . would severely prejudice but not strictly imperil the ability of the U.S. Government to safeguard and enhance the well-being of Americans in a free and secure nation—

And for which:

the United States should be prepared to commit forces to meet threats and to lead a coalition of forces, but only in conjunction with a coalition or allies whose vital interests are threatened.

Next, third, we have another set of interests. These are called ''just important interests.'' They are not vital, not

necessary. These are important, which would have major negative consequences:

The United States should be prepared to participate militarily, on a case-by-case basis, but only if the costs are low or others carry the lion's share of the burden.

Finally, last, comes the most numerous but lowest priority category of ''less important or secondary interests,'' which:

Are intrinsically desirable but that have no major effect on the ability of the U.S. government to safeguard and enhance the well-being of Americans in a free and secure nation.

My colleagues in the Senate, this is exactly the kind of exercise—of defining and differentiating our national interests, and of gauging the proper kind and level of response for protecting such interests—that we need to be engaging in if we are to bring coherence and effectiveness to our post-cold war foreign and national security policy. Everything is not the most important thing to do. Everything is not necessarily in America's vital interest to do. It is, in my judgment, what we must do in considering our policies, particularly toward the Balkans and now with a plan in Colombia to involve ourselves in a war against narcotraffickers in Colombia. We need to do several things. We need to ask ourselves: How vital are our interests in those areas? And what are we willing to pay to protect those interests?

What about the role of other countries, who, for reasons of history and geography, may have even greater national interests at stake?

Senator ROBERTS pointed out back in February the similarities between the Commission on America's National Interests list of ''vital'' interests and related compilations by other groups and individuals. I believe, for example, that the commission's definitions of ''vital'' and ''extremely important'' national interests are quite compatible with the relevant portions of the January 2000 White House ''National Security Strategy for a New Century.'' The conflicts will lie in applying these general principles to specific cases. That is what Senator ROBERTS and I intend to do with the remaining sessions of these global role dialogs, including such applications as the role of our alliances and the decision on when and how to intervene militarily.

However, from my perspective, though we may have some implicit common ground as to our most important national interests and what we should be prepared to do in defending them, in the real world where actions must count for more than words and where capabilities will inevitably be given greater weight than intentions, the picture we too often give to the world—of unilateralist means and narrowly self-interested ends—and to our own citizens—of seemingly limitless aspirations but quite limited resources we are willing to expend in achieving them—is surely not what we should be doing.

Samuel P. Huntington writes in the March/April edition of Foreign Affairs:

Neither the Clinton administration nor Congress nor the public is willing to pay the costs and accept the risks of unilateral global leadership. Some advocates of American global leadership argue for increasing defense expenditures by 50 percent, but that is a nonstarter. The American public clearly sees no need to expend effort and resources to achieve American hegemony. In one 1997 poll, only 13 percent said they preferred a preeminent role for the United States in world affairs, while 74 percent said they wanted the United States to share power with other countries. Other polls have produced similar results. Public disinterest in international affairs is pervasive, abetted by the drastically shrinking media coverage of foreign events. Majorities of 55 to 66 percent of the public say that what happens in western Europe, Asia, Mexico, and Canada has little or no impact on their lives. However much foreign policy elites may ignore or deplore it, the United States lacks the domestic political base to create a unipolar world. American leaders repeatedly make threats, promise action, and fail to deliver. The result is a foreign policy of ''rhetoric and retreat'' and a growing reputation as a ''hollow hegemon.''

One of my favorite authors on war and theorists on war, Clausewitz, put it this way:

Since in war too small an effort can result not just in failure but in positive harm, each side is driven to outdo the other, which sets up an interaction. Such an interaction could lead to a maximum effort if a maximum effort could be defined. But in that case, all proportion between action and political demands would be lost: means would cease to be commensurate with ends, and in most cases a policy of maximum exertion would fail because of the domestic problems it would raise.

I think we are maximally committed around the world. I think we have to review these commitments because I am not quite sure we have the domestic will to follow through on them or the budgets to take care of them. We do not want to risk failure.

Once again, I thank all of the Senators who have joined in today's discussion. I have benefitted from their comments, and encourage all of our colleagues of whatever party and of whatever views on the proper U.S. global role to join in this effort to bring greater clarity and greater consensus to our national security policies through these dialogs. Our next session will be on the role of multilateral organizations, including NATO and the United Nations, and is scheduled to occur just after the Easter break.

During the Easter break I intend to go visit our allies and friends in NATO, in Belgium, to go to Aviano to get a background briefing on how the air war in the Balkans was conducted, to go on to Macedonia and into Kosovo itself to see our forces there. That would be over the Easter break. I will go back through London to get a briefing from our closest ally, our British friends.

I hope to come back to the Senate in a few weeks with a more insightful view of what we should do, particularly in that part of the world, regarding our responsibilities.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. First, again, I thank my good friend, the distinguished Senator from Georgia, for this continued initiative and his leadership in what we think is a bipartisan foreign policy dialog. I hope it is successful.

We said back in February during our first discussion that our objective was to try to achieve greater attention, focus, and mutual understanding—not to mention a healthy dose of responsibility—in this body in regard to our global role.

I repeat again, in chapter 10 of the Senator's book that he has provided to every Senator, with a marvelous introduction by our Chaplain, the Senator stated that success is a team effort, that coming together is a beginning, keeping together is progress, and working together is success. That is a pretty good motto for our efforts today, as well as a recipe for our foreign policy goals.

I am very privileged to yield 15 minutes to the distinguished Senator from Nebraska, Mr. HAGEL. He is a recognized expert in the field of international affairs, and more especially, a strong backer of free trade. I seek his advice and counsel often on the very matters that we are talking about.

I am delighted he has joined us. I yield 15 minutes to the distinguished Senator and my friend.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, first, let me acknowledge the leadership of my colleagues from Georgia and Kansas for bringing attention and focus to an area that does not often get appropriate focus. It is about international affairs—the connecting rods to our lives in a world now that is, in fact, globally connected.

That global community is underpinned by a global economy. There is not a dynamic of the world today, not an action taken nor a consequence of that action, that does not affect America, that does not affect our future. I am grateful that Senators CLELAND and ROBERTS have taken the time and the leadership to focus on an area of such importance to our country.

I point out an op-ed piece that appeared in Monday's Washington Post, written by Robert Kagan, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 10, 2000]

A WORLD OF PROBLEMS . . .

(By Robert Kagan)

Call me crazy, but I think it actually would serve the national interest if George W. Bush spent more time talking about foreign policy in this campaign. Not to slight the importance of his statements on the environment and the census. But perhaps Bush and his advisers can find time to pose a simple, Reaganesque question: Is the world a safer place than it was eight years ago?

A hundred bucks says even James Carville can't answer that question in the affirmative—at least not with a straight face. A brief tour d'horizon shows why.

IRAQ

As the administration enters its final months, Saddam Hussein is alive and well and Baghdad, pursuing his quest for weapons of mass destruction, free from outside inspection and getting wealthier by the day through oil sales while the sanctions regime against him crumbles. The next president may see his term dominated by the specter of Saddam Redux.

THE BALKANS

You can debate whether things are getting better in Bosnia, or whether Kosovo is on its way to recovery or to disaster. And Clinton deserves credit for intervening in both crises. But Slobodan Milosevic is still in power in Belgrade, still stirring the pot in Kosovo and is on the verge of starting his fifth Balkan war in Montenegro. Milosevic was George Bush Sr.'s gift to Bill Clinton; he will be Clinton's gift to Al Gore or George Jr.

CHINA-TAIWAN

Even Sinologists sympathetic to the Clinton administration's policies think the odds of military conflict across the Taiwan Strait have increased dramatically. Meanwhile, the administration's own State Department acknowledges the steady deterioration of Beijing's human rights record. Good luck to Al Gore if he tries to call China policy a success.

WEAPONS PROLIFERATION

Two years after India and Pakistan exploded nuclear devices, their struggle over Kashmir remains the likeliest spark for the 21st century's first nuclear confrontation. If this is the signal failure of the Clinton administration's nonproliferation policies, North Korea's and Iran's weapons programs come in a close second and third. Even the administration's intelligence experts admit that the threat to the United States has grown much faster than Clinton and Gore anticipated. And where is the missile defense system to protect Americans in this frightening new era?

HAITI AND COLOMBIA

After nobly intervening in Haiti to restore a democratically elected president in 1994, the administration has frittered away the past 5½ years. Political assassinations in Haiti are rife. Prospects for stability are bleak. Meanwhile, the war in Colombia rages, and even a billion-dollar aid program may not prevent a victory by narco-guerrillas. When the next president has to send troops to fight in Colombia or to restore order in Haiti, again, he'll know whom to thank.

RUSSIA

Even optimists don't deny that the election of Vladimir Putin could be an ominous development. The devastation in Chechnya has revealed the new regime's penchant for brutality.

Add to all this the decline of the armed forces—even the Joint Chiefs complain that the defense budget is tens of billions of dollars short—and you come up with a story of failure and neglect. Sure, there have been some successes: NATO expansion and, maybe, a peace deal in Northern Ireland. Before November, Clinton could pull a rabbit out of the hat in the Middle East. But Jimmy Carter had successes, too. They did not save him from being painted as an ineffectual world leader in the 1980 campaign.

Bush maybe gun-shy about playing up foreign policy after tussling with John McCain in the primaries. But Gore is no McCain. He is nimble on health care and education, but he is clumsy on foreign policy. Bush may not be a foreign policy maven, but he's got some facts on his side, as well as some heavy hitters. Colin Powell, Dick Cheney, Goerge Shultz and Richard Lugar, instead of whispering in W.'s ear, could get out in public and help build the case. John McCain could pitch in, too.

The offensive can't start soon enough. The administration has been adept at keeping the American people in a complacent torpor: Raising the national consciousness about the sorry state of the world will take time. And if Bush simply waits for the next crisis before speaking out, he will look like a drive-by shooter. Bush also would do himself, his party and the country a favor if he stopped talking about pulling U.S. troops out of the Balkans and elsewhere. Aside from such talk being music to Milosevic's ears, Republicans in Congress have been singing that neo-isolationist tune for years, and the only result has been to make Clinton and Gore look like Harry Truman and Dean Acheson.

Some may say it's inappropriate to ''politicize'' foreign policy. Please. Americans haven't witnessed a serious presidential debate about foreign policy since the end of the Cold War. Bush would do everyone a service by starting such a debate now. He might even do himself some good. Foreign policy won't be the biggest issue in the campaign, but in a tight race, if someone bothers to wake the people up to the world's growing dangers, they might actually decide that they care.

Mr. HAGEL. Mr. Kagan is a senior associate at the Carnegie Endowment for International Peace. He echoes what Senators ROBERTS and CLELAND have talked about; that is, the vital interests of our country in world affairs. He suggests that America's two Presidential candidates this year, Governor Bush and Vice President GORE, focus attention in the remaining months of this Presidential campaign on international issues. He lays out a number of areas in the world that are of vital consequence and concern to not only those particular regions but to the United States.

The point is, others are coming to the same conclusions and realizations as our friends from Georgia and Kansas: that international relations is the completeness of all of our policies—trade, national security, economy, geopolitics. It is, in fact, a complete policy.

We are living in a most unique time in history, a time when everything is possible. We live in a time when we can do more good for mankind than ever in the history of the world. Why is that? It deserves some perspective and some review.

Over the last 50 years, it has been the multilateral organizations of the world, beginning with the visionary and foresighted leadership of Harry Truman after World War II and a Republican Congress, working jointly to develop and implement multilateral policies and organizations such as the United Nations, such as what was born at Breton Woods, the IMF, the World Bank, trade organizations, multilateral peace, financial organizations—all are imperfect, all are flawed. But in the real world, as most of us understand, the choice is seldom between all good, the easy choice, and all bad. Normally our foreign policy and every dynamic of that foreign policy, be it foreign aid, be it national security interests, be it geopolitical interests, falls somewhere between all good and all bad. It is a difficult position to have to work our way through.

With this weekend's upcoming annual meetings for the IMF and the World Bank and the number of guests who will be coming to Washington—I suspect not exactly to celebrate the IMF and the World Bank and the World Trade Organization and other multilateral organizations—it is important that we bring some perspective to the question that fits very well into the larger question Senators ROBERTS and CLELAND have asked; that is, is the world better off with a World Trade Organization, with a world trade regime, its focus being to open up markets, break down barriers, allow all nations to prosper? And how do they prosper? They prosper through free trade. Underpinning the free trade is individual liberty, individual freedom, emerging democracies, emerging markets.

We could scrap the World Trade Organization, 135 nations, and go back to a time, pre-World War II, that essentially resulted in two world wars, where there would be no trading regime. Those countries that are now locked in poverty have to go it on their own. That is too bad. We can scrap the World Trade Organization. While we are at it, have the IMF and the World Bank added to any prosperity in the world? Have they made mistakes? Yes.

Let's examine some of the underlying and most critical and realistic dynamics of instability in the world. We do know that when there is instability, there is no prosperity and there is no peace. What causes instability?

Let's examine what it is that causes instability. When you have nations trapped in the cycle of hopelessness and the perpetuation of that cycle because of no hope, no future, poverty, hunger, pestilence, what do we think is going to happen? History is rather complete in instructing us on this point: conflict and war. When there is conflict and war, is there an opportunity to advance the causes of mankind? No. Why is that? Let's start with no trading. There are no markets. Do we really believe we can influence the behavior of nations with no contact, no engagement, no trade? I don't think so.

As many of our guests who are arriving now in Washington, who will parade up and down the streets, burning the effigies of our President and the Congress and the World Trade Organization and the IMF and the World Bank—and I believe sincerely their motives are pure; that they wish to pull up out of abject poverty the more than 1.5 billion people in the world today, which is a worthy, noble cause—I think the record over the last 50 years is rather complete in how that has been done to help other nations over the last 50 years do that a little differently

than tearing down the multilateral institutions that have added to prosperity and a better life and a hope for mankind.

I will share with this body a couple of facts from the 1999 Freedom House survey. Most of us know of the organization called Freedom House. It issued its first report in 1978. This is what Freedom House issued on December 21, 1999: 85 countries out of 192 nations today are considered free. That represents 44 percent of the countries in the world today. That is the second largest number of free countries in the history of man. That represents 2.34 billion people living in free countries with individual liberties, 40 percent of all the people in the world. Fifty-nine countries are partly free, 31 percent of the countries. That represents 1.5 billion people living in partly free countries, 25 percent of the world's population.

What are the real numbers? Seventy-five percent of the countries, largest in the history of mankind, are living in either free or partly free countries. Forty-eight countries not free. That represents 25 percent of the population of the world.

What does that mean? Let's go back and examine about 100 years ago where the world was. At the turn of the century, no country on Earth, including the United States, had universal suffrage. Less than 100 years ago, the United States did not allow women to vote, and there were other human rights violations we accepted in this country. My point is, the United States must be rather careful not to moralize and preach to the rest of the world. Yes, we anchor who we are on the foundation of our democracy and equal rights, but it even took America 250 years to get as far as we have come.

So we should, if nothing else, at least be mindful of that as we dictate to other countries. Now, as we examine a number of the points that have been made this morning and will be made throughout the next few months about foreign policy, it is important for us to have some appreciation and lend some perspective to not only the tremendous progress that has been made in the world today, and the hope we have for tomorrow, and the ability and the opportunities we have to make the world better—and it is fundamentally about productive capacity, individual freedoms, trade, free markets, private investment, rule of law, rights, contract law, all that America represents, all that three-fourths of the world countries and population represent. It is solutions, creative solutions, for which we are looking.

Creative solutions will come as a result of imaginative and bold leadership. As I have said often when I have been challenged about America's role in the world and is America burdening itself with too much of a role—incidentally, what should our role be? That is a legitimate debate. But I have said this: America has made its mistakes. But think of it in this context. If America decides that its burden is too heavy, whether that be in the area of contributions to the United Nations, to NATO, wherever we are around the world, as an investment, we believe in markets, in freedom, in opportunity, in less war, less conflict, a future for our children, for whatever reason, if we believe we are too far extended—and that is a legitimate question—and we will have an ongoing dynamic debate on the issue and we should remind ourselves of this—the next great nation on earth—and there will be a next great nation if America chooses to recede back into the cold, gray darkness of mediocrity—that next great, powerful nation may not be quite as judicious and benevolent with its power as America has been with our power. That is not the world that I wish my 7-year-old and 9-year-old children to inherit.

If there is an additional burden—and there is—for America to carry on to be the world's leader, for me, it is not only worthy of the objective to continue to help all nations and raise all nations' opportunities, but realistically, geopolitically, it is the only answer for the kind of world that we want not just for our children but for all children of the world.

So rather than tear down organizations and tear down trade regimes and tear down organizations that are focused on making the world better, we should ask our friends who are coming to Washington this week to give us creative solutions and be part of those creative solutions.

Mr. President, I am grateful for an opportunity to share some thoughts and hopefully make a contribution to what my friend from Georgia and my friend from Kansas have been about today and earlier in our session. This will continue throughout this year because through this education and this information and this exchange of thoughts and ideas we will fundamentally broaden and deepen the foundation of who we are as a free nation and not be afraid of this debate in front of the world. It is the debate, the borderless challenges of our time—terrorism, weapons of mass destruction, the scourge of our time, illegal drugs—that must be confronted and dealt with as a body of all nations, all peoples. Understanding and dealing with these fundamental challenges and issues are in the common denominator, mutual self-interest of all peoples.

Again, I am grateful for their leadership. I yield the floor.

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I thank the distinguished Senator for his very valuable contribution and for taking part.

How much time does the Senator from Texas need? We have approximately 25 minutes still remaining under morning business.

Mrs. HUTCHISON. Up to 15 minutes, or if someone else is scheduled in, let me know.

Mr. ROBERTS. Mr. President, I will soon yield to the Senator from Texas. She has been a champion on behalf of our men and women in uniform. She is a former member of the Armed Services Committee, now a very valued and influential member of the Appropriations Committee. These are the folks who have the obligation and responsibility to pay for a military that I believe today is stressed, strained, and somewhat hollow, unfortunately.

I think Senator HUTCHISON, probably more than any other Senator, has been very diligent expressing concern and alerting the Senate and the Congress and the American people as to our commitments abroad, what is in our vital national security interests, and the problems we have talked about regarding an overcommitment.

The Senator has come to me on repeated occasions when proposing amendments. Sometimes she has withdrawn them, and other times she has proceeded but always prompting a debate on the Senate floor where there literally has been none in regard to our military policy and when we commit the use of force. She has pointed out, I think in excellent fashion, the paradox of the enormous irony that we have in Bosnia where we are supporting a partitioned kind of society among three ethnic groups, or nationalities; whereas, just to the south, in Kosovo, our goal is to somehow promote a multiethnic society where the divisions are at least equal to that in Bosnia.

Senator HUTCHISON not only comes to the floor and expresses her opinion, but her opinion is based on facts and on actually being present in the area with which we are concerned. She has been a repeat visitor to Bosnia, Kosovo, and every troubled spot I can imagine, including Brussels and Russia. She does more than talk to officials. Senator HUTCHISON, when she goes on a co-del, not only talks to the briefing folks, but she actually goes out to the people involved and talks about their daily lives, their individual freedoms, their pocketbooks. She talks to these folks individually and gives us a healthy dose of common sense and reality when she is reporting on it. We are glad to welcome her to this debate. I yield the Senator 15 minutes.

Mrs. HUTCHISON. Mr. President, I thank the Senators for taking time on the Senate floor to discuss an issue which is not before us this very minute, but it is something that requires much more thought, much more long-term debate in the Senate.

I commend the leadership of these two distinguished members of the Armed Services Committee on a bipartisan basis. Certainly, both have served in our military quite honorably, and especially Senator CLELAND, who has given so much for our country. I say thank you for setting aside this time. I look forward to participating on future

occasions that you are setting aside for discussion of the big picture items.

I think one of the problems we face today is we haven't truly come to grips with what America's role in the world is in the post-cold-war era. The issues you are bringing forth are exactly what we should be setting out in order to have a policy in the post-cold-war era that allows the United States to take its rightful place and do the very best job we can for America and for our allies around the world.

It is an understatement to say that the United States is the world's only superpower. In pure military terms, we are a colossus. Our troops are in Japan, Korea, throughout Europe, and in the Middle East. We guard countless other nations. We keep tyrants in check from Baghdad to Pyongyang to Belgrade. No other nation has ever wielded such military power.

Leadership on this scale requires discretion, the confidence to know the right course, and the will to pursue it—the confidence to know when not to engage but to encourage others to do so.

True leadership is striking out on a right course of action grounded in a central philosophy of advancing the American national interests. Simply put, both our allies and our enemies must know what to expect from the United States of America. We must always be strong. We must rely upon diplomacy to maintain much of our leadership. But when diplomacy fails, global leadership may require the use of military force.

When and how should the United States use our military power?

There was a time when the answer was clear. During the cold war, we determined we should only use military force when our vital national interests were clearly threatened. In the cold war, there was a clear military focus on a threat we could easily identify. We knew that if we acted, the Soviets would react. There was a clarity.

Today, however, because we are the only superpower, we are often called upon to act when there is a crisis anywhere in the world. Leadership in this instance requires much more discipline than in the past.

In our political system, that discipline comes from the checks and balances that have been built into it.

The only clear authority our Constitution grants to the President in committing our forces to conflict is in the role of Commander in Chief to deploy troops. But equally clear in the Constitution, Congress alone has the power to declare war, to raise and support an Army, and to provide for the Navy.

Our framers couldn't have been more clear on this issue. They did not break with the monarchy in England to establish another monarchy in America. They feared placing in the hands of the President the sole power to commit to war and also implement that war. Yet, especially in the last 50 years, Presidents have sent our troops into conflict without formal declaration of war that would be required by Congress, and not only for emergencies such as repelling sudden attacks that were envisioned by our founders.

Congress is being gradually excluded in its constitutional role in foreign policy. The consultation process is broken, and it must be fixed.

In a representative democracy such as ours, elected officials must stand up and be counted when the fundamental decisions of war and peace are made.

I believe it is important for Congress to reclaim its deliberate role intended by the Constitution. I have proposed limits on the duration and size of a force that can be deployed without congressional approval. I have proposed that the President be required to identify the specific objectives of a mission prior to its approval by Congress.

Too often operations such as those we have seen in Bosnia, and now Kosovo, become open ended with no milestone to measure success, no milestone to measure failure, and no exit strategy.

It is the hallmark of this administration for the United States to go into regional crises and displace friendly, local powers who share our goal and could act effectively on their own. In Kosovo, we fought and sustained an unsustainable government. We are trying to prevent the realignment of a region where the great powers have tried and failed many times to impose their will on ancient hatred and atrocities.

In fact, I am interested in working with others to see if we can address this issue. We must condition future peacekeeping funds on the requirement that the administration reconvene the parties to the Dayton peace accords that ended in the Bosnia conflict, and those involved in the Rambouillet talks that resulted in Kosovo, and other regional interests.

We must review the progress we have made and begin developing a long-term settlement based on greater self-determination by the governed and less wishful thinking by outside powers. This will probably involve tailoring the current borders to fit the facts on the ground. But this will create the condition for a genuine stability and reconstruction. When we take up further funding of Bosnia and Kosovo, I am not going to try to determine the outcome of these talks, but it is essential that we reconvene the parties to see where we are. For Heaven's sake, that is a modest proposal from the world's only superpower.

Years ago, President Nixon laid out principles on how our military forces should be used overseas. Based upon his principles, I offer the following outline for a rational superpower to try to bridge the ethical question:

First, we should acknowledge that bold leadership means war is the last resort—not the first. We cannot let our allies and our enemies suck us into regional quicksand. This is what happened in Bosnia and Kosovo. Our allies refused to act on their own, insisting they could not take military action without a commitment of U.S. troops. That was not the case. Our European allies have sophisticated military forces. We should have been ready with backup assistance with heavy air and sea support, intelligence monitoring, supplies, and logistical coordination, but they did not need our combat leadership for a regional conflict that could be contained by their own superb ground forces.

Second, we should not get involved in civil conflicts that make us a party to the conflict. We learned this with tragic consequences in Somalia when we got in between warring forces trying to capture one warlord. Yes, Serbia has a terrible leader. And it was tempting to punish him with our military force. But look who pays the price with many innocent civilians in Serbia as well. Often these types of missions are ones in which our allies can do a better job because oftentimes it takes more money and it is less efficient for American troops to do peacekeeping missions.

When we commit 10,000 troops, it is not 10,000 troops. It is 10,000 troops on the ground and 25,000 troops in the surrounding perimeter to protect them. This is because American troops are always the target wherever they are, as they were in Somalia and as they have been in Kosovo. You are never going to hear me say we should not have the protection force. Of course, we are going to have the protection force if our troops are involved.

I have heard it said by many in our military who come home from overseas that if there is an incident, it is going to be against us.

I have heard our military people say if they are walking with other groups of military on parade, that people who are wishing to protest will let the Turks go by, the French go by, and the Brits go by. They wait for the Americans to hurl the epitaphs. We have to have a protection force. But that is not the case for many of our allies.

Third, why not help those who are willing to fight for their own freedom? The administration seems to see no option between doing nothing and bombing someone into the stone age. There are, too often, other options. These options that we ignore, and sometimes even oppose, include local forces willing to fight for their own freedom.

In Bosnia, for example, since 1991, we have maintained an arms embargo on the Muslim forces who wanted, and begged, to be able to fight for themselves. I met with them many times. I have been to Bosnia and that region seven times. I am going again next week. I am going to have Easter services with the great 49th Division, the reserve unit that is in control of the peacekeeping mission in Bosnia. Congress voted to lift the arms embargo and allow the Muslims to have arms to defend themselves, but the administration opposed it. For 3 years the Muslims and Croats were routed because

they could not fight. They didn't have the arms. But the Croats got the arms, they ignored the arms embargo, and they fought back. When they did, President Milosevic cut a deal.

I think we need to look at the option of helping people who are willing to help themselves rather than keep a fight artificially unfair.

Fourth, we should not even threaten the use of troops except under clear policies. One clear policy should be if the security of the United States is at risk. When should we deploy our troops? We need a higher standard than we have seen in the last 6 years. Look at the war in the Persian Gulf. The U.S. security interests were at stake. A madman, with suspected nuclear and biological weapons, invaded a neighboring country and threatened the whole Middle East. It could have realigned the region in a way that would have a profound impact on the United States and our allies and subjected the entire territory to chemical, biological, and perhaps nuclear weapons.

We, of course, should always honor our commitments to our allies. If North Korea invades the south, we are committed to helping our allies. We also have a responsibility toward a democratic Taiwan, which has been under constant intimidation from Communist China. We have the world's greatest military alliance, NATO, where we are committed to defend any one of those countries that might be under attack from a foreign power.

It is in the U.S. interest that we protect ourselves and our allies with a nuclear umbrella. Yes, we would use troops to try to make sure a despot didn't have nuclear capabilities.

These are clear areas of U.S. security interests. However, the United States does not have to commit troops on the ground to be a good ally. If our allies believe they must militarily engage in a regional conflict, that should not have to be our fight.

The United States does not have to commit troops to be a good ally. If our allies believe they must militarily engage in a regional conflict, that should not have to be our fight. We could even support them in the interest of alliance unity. We could offer intelligence support, ''airlift,'' or protection of noncombatants. We do not have to get directly involved with troops in every regional conflict to be good allies.

When violence erupted last year in Indonesia, we got it about right. We stepped aside and let our good ally Australia take lead. We helped with supplies and intelligence, but it wasn't American ground troops facing armed militants.

Instead, we should focus our resources where the United States is uniquely capable; in parts of the world where our interests may be greater or where air power is necessary.

It is not in the long-term interest of our European allies for U.S. forces to be tied down on a peacekeeping mission in Bosnia or Kosovo while in some parts of the world there is a danger of someone getting a long-range missile tipped with a germ warhead provided by Saddam Hussein and paid for by Osama Bin Laden.

A reasonable division of labor—based on each ally's strategic interests and unique strengths—would be more efficient and more logical.

What has been the result of our unfocused foreign relations? Qualified personnel are leaving the services in droves. In the past 2 years, half of Air Force pilots eligible for continued service opted to leave when offered a $60,000 bonus.

The Army fell 6,000 short of the congressionally authorized troop strength last year. We used up a large part of our weapons inventory in Kosovo. We were down to fewer than 200 cruise missiles worldwide. That may sound like a lot, but it's just a couple of days worth in Desert Storm.

So let's be clear that if we do not discriminate about the use of our forces it will weaken our core capabilities. If we had to send our forces into combat, it would be irresponsible to send them without the arms they need, the troop strength they need, and the up-to-date training they must have. It takes 9 months to retrain a unit after a peacekeeping mission into warlike readiness.

As a superpower, the United States must draw distinctions between the essential and the important. Otherwise, we could dissipate our resources and be unable to handle either. To maximize our strength, we should focus our efforts where they can best be applied. That is clearly air power and technology. This will be the American responsibility, but troops on the ground where those operations fall short of a full combat necessity can be done much better by allies with our backup rather than us taking the lead every time.

Any sophisticated military power can patrol the Balkans, or East Timor, or Somalia. But only the United States can defend NATO, maintain the balance of power in Asia, and keep the Persian Gulf open to international commerce.

I thank the distinguished Senators ROBERTS and CLELAND for allowing Members to discuss these issues in a way that will, hopefully, help to solve them in the long term.

Mr. ROBERTS. Senator CLELAND and I thank the distinguished Senator from Texas for her contribution.

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## MEASURE READ FOR THE FIRST TIME—H.R. 1838

Mr. ROBERTS. Mr. President, I understand H.R. 1838 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative assistant read as follows:

A bill (H.R. 1838) to assist in the enhancement of the security of Taiwan, and for other purposes.

Mr. ROBERTS. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

Mr. ROBERTS. I yield the floor.

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## ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Mr. CLELAND. I understand Senate Resolution 286 expressing the sense of the Senate that the U.S. Senate Committee on Foreign Relations should hold hearings and the Senate should act on the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), introduced earlier today by Senator BOXER and 32 cosponsors, is at the desk, and I ask for its immediate consideration.

Mr. ROBERTS. On behalf of the majority of the committee, I object.

The PRESIDING OFFICER. The objection is heard.

The resolution will go over under the rule.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. If there is a 5-minute limit on morning business speeches, I ask unanimous consent to speak for 9 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2404 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. I thank the Chair.

(The remarks of Ms. LAUDRIEU, Mr. GRAMM, and Mr. CRAIG pertaining to the introduction of legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. LANDRIEU. I thank the Chair, and I yield the floor.

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## MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Members permitted to speak up to 10 minutes each, until the hour of 1:30 p.m. today, with time to be equally divided between the two leaders.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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## UNANIMOUS CONSENT AGREEMENT—S. 2323

Mr. CRAIG. Mr. President, I ask unanimous consent that at 1:30 p.m. today the Senate proceed to the consideration of Calendar No. 481, S. 2323, under the following limitations: 1 hour for debate on the bill, equally divided

between the majority and minority leaders or their designees. I further ask consent that no amendments or motions be in order to the bill, and that following the use or yielding back of time, the bill be read a third time and, finally, the Senate then proceed to a vote on the passage of the bill, with no intervening action or debate, at a time to be determined by the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent that though we have the previous unanimous consent agreement, I be able to speak for up to 30 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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## THE MARRIAGE TAX PENALTY

Mr. GRAMM. Mr. President, yesterday, as I listened to our Democrat colleagues talking about the marriage penalty elimination, and their opposition to our bill, I got interested in this debate and eager to speak on it.

I know we have not been able to work out an agreement yet to bring the bill to the floor. I know our Democrat colleagues have refused to agree to limiting it to amendments relevant to the marriage penalty. We all know the easiest way to kill something around here is to pile a bunch of extraneous amendments on it.

I am hopeful we can work out these differences and that we can have a vote on eliminating the marriage penalty. The American people have a right to know where Members of the Senate stand on this critically important issue.

The repeal of the marriage penalty was adopted in the House by an overwhelming vote. I believe it should be repealed. I am hopeful the President will sign the bill, even though to this point in time he says he will not. But rather than waiting around for some agreement to be made—that may never be made—I felt I had something to say that ought to be heard on this issue.

What I would like to talk about today is, first, to set this debate within the context of the President's budget and basically highlight the choice we are making between spending here in Washington, where we sit around these conference tables and make decisions to spend billions of dollars, and spending back home in the family, where the families sit around the kitchen table and try to decide how to spend hundreds of dollars or thousands of dollars for themselves.

I would like to talk about our repeal of the marriage penalty and why it is the right thing to do, why it is not just a tax issue, why it is a moral issue. This is a moral issue we are talking about.

I want to talk about the so-called marriage bonus that some of our colleagues have thrown up. I want to try to point out how it is one of the more phony issues that has ever been discussed.

I want to talk about President Clinton's alternative to our repeal of the marriage penalty.

Finally, I want to talk about the last form of bigotry that is still acceptable in America; that is, bigotry against the successful.

I would like to try to do all that in such a way as to deviate from my background as a schoolteacher and be brief.

First of all, let's outline the choices we have. The President has proposed in his budget that we spend $388 billion over the next 5 years on new Government programs and expansions of programs.

This is brand new spending. This is $388 billion the President's budget says we ought to spend above the level we are currently spending, and we ought to do it on a series of new programs and program expansions—about 80 new programs and program expansions.

We have proposed that we give the people of America $150 billion of the taxes they have paid above the level we need to fund the Federal Government, and at the same time to save every penny of money that came from Social Security taxes for Social Security.

Many people who have followed this debate heard our Democrat colleagues spend all of yesterday saying, it is dangerous, it is irresponsible, it is reckless to let the American people keep $150 billion of this non-Social Security surplus we have in the budget because the American economy is generating more revenues than we need to pay for the current Government.

The question I would ask, and that I would ask Americans as they are sitting in front of their television screens or as they are sitting around the kitchen table doing their budget, is: How come it is irresponsible for us to let working families spend $150 billion more of their own money, but it is not irresponsible to let President Clinton and Vice President Gore and the Democrats spend $388 billion of their money? How come it is irresponsible when families get a chance to keep more of what they earn, and yet it is not irresponsible to take more than twice that amount of money and spend it in Washington, DC?

Why repeal the marriage penalty? Gosh, most people are shocked when they discover that we have such a thing. Let me quickly point out, I do not think anybody ever set out with a goal of imposing a penalty on marriage.

When many of the provisions of the Tax Code were adopted, only 30 percent of adult women worked outside the home; now it is roughly 60 percent. The world has changed dramatically since much of the Tax Code was written.

As Abraham Lincoln recognized long ago: To expect people to live under old and outmoded laws is like expecting a man to be able to wear the same clothes he wore as a boy. It just does not work.

No matter who set out to do it, we have in today's Tax Code a provision of law that basically produces a situation where, if two people, both of whom work outside the home, meet and fall in love and get married, they end up paying on average about $1,400 a year in additional income taxes. Paradoxically, that is true if they meet, fall in love, and decide to get married on the last day of December. They pay $1,400 more of income taxes for the right to live in holy matrimony for one day. The number gets much bigger for working couples who make substantial income, and it gets bigger for working couples who make very moderate income.

Today, if a janitor and a waitress—the janitor has three children; the waitress has four children; they are both working; they are struggling, trying to do the toughest job in the world, which is to make a single-parent home functional—meet and fall in love and have the opportunity to solve one of their great problems, by their getting married, they not only both lose their earned-income tax credit but they end up in the 28-percent tax bracket. We literally have a disincentive in the Tax Code for people to form the most powerful institution for human happiness and progress in history; that is, the family.

This obviously makes no sense. Nobody argues that it makes sense. Even the people who oppose repealing it agree that the Tax Code does not make any sense. They simply want to spend the money that would be given back, and so they don't want to give it back. They don't say it makes sense. They don't say it is fair.

I think it is not only unfair, it is immoral. How dare we have a Tax Code that penalizes people for getting married? So we want to repeal it.

Where does the penalty come from? I know people's eyes glaze over when we talk about numbers. I will not talk about many of them today, but let me try to explain why it happens.

If you are single and filing your tax return, you pay at the 15-percent rate on income up until you earn $25,750. Let's say you and your sweetheart both get out of school and begin teaching, and you both make $25,000 a year, and you are both paying 15-percent marginal tax rates. If you get married, then, at a combined income of $43,000, roughly, you go into the 28-percent tax bracket.

So the first reason for the marriage penalty is that in the case of these two young people who fell in love, got married, were making $25,000 each, they were paying 15-percent marginal tax rates each, and they got married, $7,000 of their joint income is taxed at 28 percent.

Secondly, the standard deduction is such that you end up losing and getting

a smaller standard deduction by getting married than if you stayed single.

The net result is, the standard deduction for a married couple is less than the sum of the two deductions for two individuals who are single. You get into the 15-percent tax bracket at a lower income. You get into the 28-percent tax bracket at a lower income.

The bottom line is, when you take into account that rather than getting $8,600 in a combined standard deduction, you only get $7,200, and when you take into account that you get into the 28-percent tax bracket $7,000 sooner, the net result is, on average, for those Americans who fall in love and get married, they pay on average $1,400 a year for the privilege of being married.

We get rid of the marriage penalty for everyone. How do we do it? First of all, we say, whether you are single or whether you are married, you get the same standard deduction. If it is you and your wife filing a joint return, you get twice what you would have gotten filing individually, or you get the combination of what she would have gotten and what you would have gotten. We then stretch the 15-percent tax bracket to assure that by getting married, married couples do not get pushed into a higher tax bracket. Then we stretch the 28-percent tax bracket to be sure that by getting married, people don't get pushed into the 31-percent tax bracket.

The net result of our bill is, we totally repeal the marriage penalty. As a result, the average taxpaying family in America would get about $1,400 more that they could spend themselves on their own families.

I know every time we talk about appropriations here, spending money in Washington, people talk about compassion: We are spending money on education, housing, nutrition, those things we are all for. By repealing the marriage penalty and letting families keep $1,400 of their own money to spend on their own children, they are going to spend it on education, housing, and nutrition—the education they choose, the housing they choose, and the nutrition they choose. That is what we want to do.

The alternative is proposed by President Clinton. I want people to know that when the President stands up and says, I am for repealing the marriage penalty just as the Republicans are, only I want to do it differently, he is not quite leveling with you. You need to know that.

How can I possibly say such a thing? First of all, when you look at the fine print of the President's tax cut, the first year, he raises taxes by $10 billion; the second year, he raises taxes by $1 billion. At the end of 5 years, which will be in the second term of the next President—or it could be two Presidents from now—finally, the Clinton plan will grant a grand total of a $5 billion tax cut. When the President is saying he gets rid of the marriage penalty, he is not leveling with you.

Let us talk about who is excluded. I am sure people know the code. If they don't know the code, I want them to know it. Whenever President Clinton and Vice President GORE and the Democrats want to deny people the ability to keep money they earn, or whenever they want to raise their taxes, there is one label they always stick on them—they are ''rich.'' Every time taxes are raised, if you listen to President Clinton and Vice President GORE, we raised taxes on ''the rich.''

Go back and look at the President's tax increase he proposed in 1993. It turned out that if you were earning $25,000 a year and were drawing Social Security, you were rich. That is how they define rich. Then they had tax increases on families making $44,000 a year. Ask yourself, how did they get rich?

Well, when you looked at the way President Clinton and Vice President GORE proposed their tax increase, to calculate who had to pay it, they added what you would have to pay in rent to rent your home if you owned your home, they calculated what your retirement had grown by, they calculated the value of your health insurance, they calculated the value of your parking place. Some family in Texas making $44,000 a year, thinking they were a long way from being rich, suddenly, with all of President Clinton's amazing ability to twist the facts, they were making $75,000 a year, if they owned their own home, owned their own car, had a parking place at work, if they owned life insurance.

But the point was that supposedly they were rich. Now, I am sure if you followed this debate, you have heard our Democrat colleagues say that the Republican bill gives relief from the marriage penalty to people who are rich. Well, who are they talking about?

Well, under the President's bill, he raises the standard deduction, though not enough to eliminate the marriage penalty coming from it, and he does nothing to eliminate the fact that young people, or people who are married, get into the 28-percent tax bracket $7,000 earlier. So when we stretch the 15-percent tax bracket, who are we helping that the President says is rich? It seems to me that is a reasonable question. Who are these rich people we are helping that the President's bill would not give the tax relief to by stretching the 15-percent tax bracket?

Well, the people we are helping, as it turns out, are people who make $21,525 each. So that if you have a fireman and you have a dental technician and they meet and fall in love, under the President's notion of rich, you are rich. And to quote one of our Democrat colleagues: ''You don't deserve to have this penalty eliminated because you don't need it; you are rich.'' Under their bill, two people who get married and who each make $21,525 would be denied the relief we grant by stretching the 15-percent tax bracket.

Now, ultimately, I ask people, if you are making $21,525, are you rich? You may not think you are, but realize that when President Clinton and Vice President GORE and the Democrats are talking about rich people, they are not talking about Rockefeller, they are not talking about Mellon, and they are not talking about all of these new rich people who came from the information age; they are talking about you if you make over $21,525.

Under the President's proposal, he gives no marriage penalty relief if one parent stays at home. So under the President's plan, if you sacrifice and give up things in order that one parent can stay at home, you are rich. Under the President's proposal, you don't deserve any relief under eliminating the marriage penalty. Let me quickly add, I don't want to get into a judgment—and I am not going to—on whether one parent should stay at home. My mama worked my whole life because she had to. My wife has worked the whole lives of our children because she had a career and she wanted to. I think people have to make the decision for themselves. This is the point. You are not rich because you make a decision that one of you should stay home and take care of your children.

The President says that if you itemize your deductions—and about half of all families who make $30,000 or more itemize deductions, and everybody does that owns a home—you are rich and therefore you don't get marriage penalty relief. The President's plan would grant marriage penalty relief at a maximum of $43.50 the first year.

This is my point. Does anybody really believe that somebody making $21,525 is rich? Does anybody believe that every family in America where one of the parents stays at home with their children is rich? Does anybody believe that every family who owns a home is rich? Does anybody believe that anybody who makes $30,000 a year and itemizes on their taxes is rich? I submit that nobody believes that. But why does the President say it? Why does the Vice President say it? Why do our Democrat colleagues say it?

Let me tell you the only thing I can figure out. The alternative to saying that you are against repealing the marriage penalty, because it goes to the rich, is to say you are against it because you want to spend it in Washington. I think what the President, the Vice President, and their supporters have concluded is that it is not viable to stand up on the floor of the Senate, or in front of a television camera anywhere, and say it probably is unfair that you are paying $1,400 for the right to be married; but, look, we can spend the money in Washington better than you can, and it is better to let us keep it because we will spend it and we will make you better off. I don't think anybody would believe that and so, as a result, we see an effort to confuse people by saying, well, look, we just don't want to give this to the rich. But who gets tax relief to eliminate the marriage penalty under our bill and ends

up not getting the full relief under the President's bill? People making $21,525 each, people who choose to have one parent stay at home, people who own their home or itemize deductions.

So the plain truth is, those are the people who are being called rich. I don't think that is an accurate portrayal of rich. But, look, what is wrong with being rich? I will address that in a moment. You have heard, and you will hear again as this debate progresses, about a marriage bonus. Let me not mince words. If there has ever been a fraudulent idea in any debate in American history, it is the marriage bonus. Clearly, some minion at IRS was ordered by a politician to give a justification for continuing the marriage penalty, and after great exertion and twisting of logic, they came up with the concept of a marriage bonus—that there are actually people getting a bonus from being married—an average of about $1,300, I think it is, for these people who supposedly get the bonus.

What is this bonus? The bonus is the following thing. I have two sons; one is 24 and one is 26. They have been on my payroll for those corresponding numbers of years. I, as many parents, look forward to them being off my payroll. If a wonderful, successful girl came along and married one of them, she would get a marriage bonus. She would get to take a standard deduction by having them on her payroll instead of my payroll. She would be able to file jointly with them and stay in the 15-percent tax bracket, up to $43,000 a year. She would end up getting, on average, about an $1,300 benefit by marrying one of my sons. I would lose the benefit, but would I complain? Would this be a great economic deal for her? I mean, let's get serious. Can you feed, clothe, house, educate, and entertain somebody for $1,300 a year, or $1,400 a year, or $4,000 a year?

We insult the intelligence of the American people by talking about a marriage bonus as if the piddling amount of deduction that people get when they marry someone who doesn't work outside the home as if somehow that is a bonus to them, when it is a tiny fraction of what it costs, basically, to care for someone in America.

Let me say I would be willing to supplement the marriage bonus that someone would get by taking one of my sons off my payroll. Maybe for love someday it will happen. I hope so. But for economic reasons, nobody is going to marry somebody to get their standard deduction because they cannot feed them, house them, clothe them, and all the other things they need for them.

Let's not insult the intelligence of the American people by sighing: Oh, yes, it is true that the average family with two members who work outside the home pay $1,400 of additional taxes for the right to be married, but there are these people who get a bonus. The bonus is a fraud. The tax penalty is very real.

I want to turn to the final question. It is one about which I have thought a lot and about which I feel very strongly. That is all this business about, every time we debate anything related to the Tax Code, we are always talking about rich people.

For some reason, the President and the Vice President and many members of their party believe you have to constantly divide Americans based on their income. I strongly object to it because I think it is very destructive of everything this country stands for.

There are a lot of things I have always admired about my mama. But the one thing I think I admire the most is, when I was a boy and we were riding around in a car, we would ride down the nicest street in town, and my mama would almost always say, ''If you work hard and you make good grades, someday you can live in a house like that.''

By the logic of the President and the Vice President and many members of their party, my mother should have been saying: Those are rich people. They probably stole this money from us. It is outrageous that they have this money. They don't deserve this money. We ought to take some of this money away from them.

If we had some landed aristocracy, or something, maybe you could make that argument. But the people who were living in those nice houses when I was growing up as a boy didn't get there by accident. Most of the people didn't inherit that money, most of them earned it. Why should they be singled out?

Under their logic, my wife's father would have been a rich person to be singled out. Both his parents were immigrants. Neither of them had any formal education. He won $25 for an essay contest when he was a senior on ''What I can do to make America a greater country.'' His essay was, the only part of America he could control was himself; the only way he could make it a greater country was making something out of himself.

He won $25 in 1932 for writing that essay. And he decided he was coming to the mainland from Hawaii and was going to become an engineer.

He took a freighter from Hawaii, got on a train, met a boy going to an engineering school, went there, went out looking for a job, went to a restaurant, and the guy at the restaurant said: You are in luck. There is a guy coming here with a machine that says it will wash dishes. If you can outwash the machine, you have the job. Joe Lee outwashed the machine.

He went on, and 3 years later he had a degree in electrical engineering.

He became the first Asian American ever to be an officer of a sugar company in the history of Hawaii.

Is he the kind of person we ought to hold up and say, He is rich?

He was president of the Rotary Club. He was president of the Little League. He was the head lay leader of his church.

Is that something in America where we single people out and say they are rich? I don't think so.

There is only one form of bigotry that is still acceptable in America, and that is bigotry against the successful. It is bigotry against the people who, through their own exertions, succeed.

I would just like to say, obviously, it is a free country. If the President and the Vice President and people in their party who constantly engage in this class warfare want to do it, they have a right to do it. But I don't think it is right. And I think they are stretching the truth to the breaking point when they claim that in repealing the marriage penalty, as we do that, we are helping rich people when in fact the President's proposal to ''eliminate the marriage penalty'' denies marriage penalty relief to people who earn $21,525 a year.

Where I am from, that is not rich. But there is nothing wrong with being rich.

Look, if we are against the marriage penalty, aren't we against it if a young lawyer and a young accountant meet and fall in love? Why should it exist for some people and not for others? Should marriage penalties be paid by people who have high incomes and not by those with low income?

Our position is very simple. The marriage penalty is wrong. It is immoral. It should be repealed, and we are going to repeal it.

I hope the President will sign this bill. If he doesn't, we are going to have an election. If people want it repealed, they will know how to vote.

I thank my colleagues for their indulgence, having listened to speeches all yesterday about the rich and how we were trying to help them by repealing the marriage penalty. Let me simply say I thought some response was needed. Let me also say I don't have any objection to people being rich. I wish we had more rich people. When our programs are in effect, we will have more rich people because they will have more opportunity. They won't be paying the death tax, and they won't be paying the marriage penalty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

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## UNANIMOUS CONSENT AGREEMENT—S. 2323

Mr. GRAMS. Mr. President, I ask unanimous consent that with respect to S. 2323, the vote occur on passage at 2:30 p.m. today, with all other provisions of the previous consent still applicable and paragraph 4 of rule XII being waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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## WAIVING THE MARRIAGE PENALTY

Mr. GRAMS. Mr. President, I want to take a few minutes to follow the Senator from Texas and talk about one of the most important issues we are going

to be considering this week. Especially for young families, this could be one of the most important issues we are going to vote on maybe this year. That is the question of waiving the marriage tax penalty.

The Senator from Texas has done an excellent job in laying out some of the concerns, some of the questions, and some of the boundaries of how this is imposed and who is paying this tax.

Is it a fair tax? When you make a commitment to somebody to get married, should you also have to somehow make a commitment to Uncle Sam? And that commitment is to pay higher taxes. That is not fair. It would be like going into a store and buying a suit. The suit is $100. And they ask: Are you married? You say yes. They say: Well, that will be $150.

Why would we pay more? Why would we penalize someone just because they are married or if they are single?

I also want to give a lot of credit to Senator KAY BAILEY HUTCHISON, the other Senator from Texas, for all the work over these last couple of weeks—working with her and others to highlight the problems with the marriage penalty, whom it affects, and how much money it really means to those couples.

We just held a news conference outside the Capitol. Among those speaking were, of course, representatives of a number of groups that represent working families across this country that are there supporting it, along with the Senators who were there to support it; but I think most importantly there were three couples who also came to tell their story, why they thought getting rid of this marriage tax penalty was so important, how they urged Congress to pass this bill, and not only urged the Congress to pass it but urged President Clinton to sign this into law.

Their stories were about young couples with one child and expecting another and how, after they are married, they look at the tax forms and find because they are married—young families not making a lot of money—their tax this year is going to be about $1,100 more because they are married—nearly $100 in penalty every month for this young couple.

Another couple from Maryland talked about the penalty they have—well over $1,400 a year. Again, why? Because they are married.

Go to the Tax Code, to the page referring to you, and look down the lines, and if you are married, there is a penalty.

As one man said, at many weddings across the country today there is an uninvited guest. That uninvited guest is the tax man. He says: Good, you are getting married; when you fill out your tax forms this year, you will pay more to Washington in taxes.

Some in the Senate who say we don't need to repeal this marriage tax penalty. As Senator GRAMM of Texas says, some say they are rich people; they can afford to pay this tax. Don't give them this break. They are rich.

They are the ones who are advocating somehow Washington needs these dollars more than the couples.

There are over 21 million couples across the country penalized at an average of $1,400 a year just because they are married. A young couple Senator CRAIG and I will talk about, when Senator CRAIG comes back to the floor, has a story I have heard a number of times; that is, the couple planned on marrying toward the end of the year, but after filling out their taxes and comparing it to what they would pay in taxes next year because they were married, they have decided to put the wedding off at least for a couple of weeks beyond the December 31 date so as a couple they will not be penalized because they are getting married. This is a young couple who have made a decision based on economics that because Uncle Sam wants to take a bigger bite out of their wallet, they are going to have to put off their plans to get married for at least several weeks just to get around the corner.

We have heard stories of friendly divorces where people have actually decided to have a friendly divorce so they save some money. Or the story of the 78-year-old man who called his wife of over 50 years and said: Do you want a divorce? She said: What are you talking? He said: I am at the tax man's office and if we get a divorce we could save a lot of money.

They didn't do it, but it is unfair that the couple is having to pay more dollars in taxes because they are married.

There are going to be stories during this debate, as the Senator from Texas pointed out, that somehow there is a marriage bonus, many people on one side are getting this bonus because they are married; or the couple on this side who is being penalized. Somehow that is supposed to wash out and be fair and even. I don't think that is true. These families should not be overtaxed, incur a tax penalty, only because they have decided they are going to get married.

I hope, when we consider this legislation this week, we consider these millions of families across the country who are paying on average about $1,400 a year. Nearly $30 billion will be collected for Washington this year from these families. There is a belief that Washington needs this money more than the families do to raise their kids, to buy the clothes, to buy the food, to pay for the mortgage, to put away money for the education of their children. All this is so important, but Washington needs it more.

Several years ago, President Clinton was asked at a news conference if he thought the marriage tax penalty was fair. He said, no, it is not really fair, or something to that effect. But the underlying message from the President was, even if it is not fair, Washington can use this money a lot more than the families can. Washington needs these dollars more than the families need these dollars.

I hope, when we get a chance to vote on this, we remember these families struggling to make ends meet, families looking for that extra dollar they can put into a savings account for their child's education, or just maybe buying something extra, maybe putting money away for a vacation or a night out for pizza, whatever is important to them. I think $1,400 a year speaks loudly for them.

As I said, Washington might believe it needs the money more than these families. However, if we have the families on the floor of the Senate, and one by one ask them if this is an important bill, are these dollars important to your family, could these dollars help out in your budget decisions, or should we give the money to Washington and hope and pray that Washington will give a few of the dollars back? I think if we leave the dollars in the pockets of the families to begin with, they will make the best decisions and they will not have to look to Washington or ask Washington or beg Washington for a few of the dollars to help them raise their families.

I defer to my colleague from Idaho.

Mr. CRAIG. Mr. President, I will be brief. I see our colleague from Illinois on the floor. I stepped back to do this colloquy with my colleague from Minnesota.

I ask the Senator from Minnesota, hasn't the marriage penalty earned a special contempt in our eyes from a firsthand experience involving our two offices?

Mr. GRAMS. The Senator from Idaho is correct. Two young people who we care deeply about, one a dedicated employee in my office and one an employee in the office of the Senator from Idaho, are among the latest victims of this insidious provision of the Tax Code.

One of my legislative assistants is a young man from Minnesota. He worked for me in Minnesota and also here in Washington, DC, for over 5 years. He is engaged to be married to a young woman in the office of the Senator from Idaho, a native of Idaho who has worked in my colleague's office for almost 3 years.

This young couple, very much similar to other couples all around the Nation, is moved by faithful affections, shared values, common life goals to become a family. But the Federal Tax Code is saying something different to this young couple.

Mr. CRAIG. Mr. President, this couple are about the same ages as my own children. I say to everyone of my generation, they are a lot like all of our children and we want to see them succeed. They are like many young couples ready to start a new life together, as we have seen generation after generation.

They originally planned their wedding date for late this autumn this year, but then friends actually started asking them, ''What about taxes?'' So they did an interesting thing; they sat

down and computed their marriage penalty. Guess what. They found out their combined incomes together as a married couple would cause them to have to pay out of their pockets an additional $1,400 more than they are currently paying as single people working on our two staffs.

We are talking about average earners. In fact, the marriage penalty for our young Idaho-Minnesota couple is just about exactly the average-sized marriage penalty American couples are paying across the country, about $1,400. That could be the cost of a honeymoon or a wedding gown or part of a college education, if properly saved and invested for children who might come as a result of this union.

It is critically important we deal with this issue. Yes, they have delayed their wedding only a few weeks, but I asked my friend from Minnesota, does the Federal Government have any business forcing any kind of a decision such as this on families and couples?

Mr. GRAMS. I answer the Senator from Idaho by saying it does not. Again, if there are those in the Senate who believe this is one of those rich families who can afford to pay this tax, believe me, these are not rich young people. They are a hard-working young couple but by no means rich. They will work hard and probably will get there someday but right now they are not.

It is the furthest thing from fairness. That is the Federal Tax Code. Even if this couple escapes the marriage tax penalty this year, they will still have to pay next year and the next year and the year after, for most of the rest of their lives, unless we change that, as we are trying to do this week with the legislation before the Senate.

We are not talking about abstract tax policy. We are not talking about economic theory. We are talking about average families, real families, who are hurt every year by the marriage tax penalty. In many cases, we are not talking about a delay of a wedding. We are talking about a Tax Code that says do not get married if your family may need that second income because the IRS has first claim on that income.

I asked that member of my staff why they felt they needed to postpone their wedding a few weeks. He told me it did not make any sense for him and his fiance to fork over another $1,400 to the Federal Government.

Some might think that is cheating the Government, but he didn't think so. He said they already pay too much in taxes, and they simply cannot afford to give the Government even more of what is rightfully theirs. My staff member said they can use that money for their wedding, they can use it to help take a trip, or to plan for their family's future, rather than giving it to the Federal Government at a time when the Government simply does not need it. I think he made an excellent point.

Washington is taking this money from young couples at a time when it doesn't need the money and these young couples do. I think it is not only wrong but a disgrace that Washington has the large appetite for the hard-earned money of people across America who simply want to get married, start a family, and to begin their lives together.

Mr. CRAIG. Mr. President, I do not think either my colleague from Minnesota or I could ever put romance in the Tax Code. But I hope we can stop the Tax Code from punishing folks such as the two young folks on our staffs we have talked about who are having to change their plans by postponing a wedding date by more than a month, contrary to their hearts, but because of the dictates of a heartless tax code.

Mr. GRAMS. Mr. President, I fully agree with Senator CRAIG. I ask for an additional 3 minutes.

Mr. DURBIN. Mr. President, I will not object, but I believe time is being taken from the Democratic time; is that correct? The Republicans have used all their time in morning business?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. In a spirit of fairness, I will yield because I do want to respond to some of these wonderful assertions, 3 minutes.

Mr. GRAMS. Mr. President, to wrap up, our staff's story is not uncommon. There are many young couples who are forced to make similar decisions.

The marriage penalty tax has discouraged women from marriage. It even has led some married couples to get friendly divorces. They continue to live together, but save on their taxes.

Dr. Gray Burtless of the Brookings Institution recently found that the decline in marriage may be a major reason why income inequality has increased across families. He believes that many poor unmarried workers suffer because they do not have a spouse's income to help support their family.

The Economist magazine offered a possible implication of this finding:

> Mr. Burtless's research suggests that the Clinton administration, rather than fretting about skills and trade, would do better to encourage the poor to marry and make sure their spouses work.

The family has been, and will continue to be, the bedrock of our society. Strong families make strong communities; strong communities make for a strong America. We all agree that this marriage penalty tax treats married couples unfairly. Even President Clinton agrees that the marriage penalty is unfair.

Contrary to these American values, the Federal tax code contains 66 provisions that can penalize married couples and force them to give more of their income to Washington. The Government's own study shows that 21 million American couples or 42 percent of couples incurred marriage penalties in 1996. This means 42 million individuals pay $1,400 more in tax than if they were divorced, or were living together, or simply remained single—more taxes than they should have.

This was not the intention of Congress when it created the marriage penalty tax in the 1960s by separating tax schedules for married and unmarried people.

If we do not get rid of this bad tax policy that discourages marriage, millions of married couples will be forced to pay more taxes simply for choosing to commit to a family through marriage.

The marriage penalty is most unfair to married couples who are both working, it discriminates against low-income families and is biased against working women. As more and more women go to work today, their added incomes drive their households into higher tax brackets. In fact, women who return to the work force after raising their kids face a 50-percent tax rate—not much of an incentive to work.

The good news is, Congress is working hard to provide marriage penalty relief to married couples. American couples may finally get a congressional blessing this year to eliminate the unfair marriage penalty taxes if our colleagues from the other side cooperate and join in our effort.

The marriage penalty repeal legislation which we currently debate would eliminate the marriage penalty in the standard deduction; provide broad-based marriage tax penalty relief by widening the 15-percent and 28-percent tax brackets; allow more low-income married couples to qualify for the earned income credit; and preserve the family tax credits from the bite of the alternative minimum tax which allow American families to claim full tax credits such as the $500 per child tax credit, which I authored.

Millions of American families are still struggling to make their ends meet. Repealing the marriage penalty will allow American families to keep an average of $1,400 more each year of their own money to pay for health insurance, groceries, child care, or other family necessities.

Elimination of the marriage penalty tax brings American families one step closer to the major tax relief they deserve. It is particularly important to note that this repeal will primarily benefit minority, low- and middle-class families.

Studies suggest the marriage penalty hits African-Americans and lower-income working families hardest. Repeal the penalty, and those low-income families will immediately have an 8-percent increase in their income.

It is unfair to continue the marriage penalty tax. There is no reason to delay the passage of the legislation. I urge my colleagues in the Senate pass the marriage penalty relief legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, what an interesting world we live in that a Republican Senator and a Democratic

Senator can look at a similar issue and see it in so many different ways. I sit here incredulous at times when I hear Republicans on the floor describe their view of the world. They live in a world where a young man and young woman fall in love and contemplate marriage and start to make plans for their future but stop cold in their tracks and say: Before we go a step further, we better go see an accountant.

I can barely remember my courtship with my wife. It was a long time ago. But it never crossed my mind to go see a bookkeeper or accountant before I decided to propose marriage. We thought there was something more to it. We knew there would be good times and bad, and we were prepared to make whatever sacrifice it took to live a life together. When I listen to my Republican colleagues, it sounds as if they want to change the marriage vows from ''love, honor and obey, in sickness and in health'' to ''love, honor and obey, in sickness and in health, so long as there is no income tax disadvantage.''

I do not think that is the real world of real people. Nor do I think we can amend the Tax Code in a way that is going to create a great incentive for people to run out and get married. I think there are more basic human emotions at stake. I think it trivializes a very sacred decision by two people making an important decision in their lives to suggest this is all about money and it is all about how many tax dollars you have to pay.

I will readily concede there is unfairness in the Tax Code. Yes, I will concede it is fundamentally unfair for us to increase the taxes on two people because they are being married. But if you would listen to the Republican logic, they grab this hook and take off and run out of town with it.

Their proposal on the marriage tax penalty is so far afield from the argument you have heard on the floor, you just cannot recognize it. In fact, let's describe the situation. If two people are about to be married and their combined income, when they file a joint return, puts them in a higher tax bracket, that is called a marriage tax penalty. However, if two people are married and their combined income puts them in a lower tax bracket, some would call that a marriage bonus. How does that happen? Perhaps one person in the marriage is not working and the other one is; the combined income on a joint return merits a lower tax rate. If both of them are working, their combined income raises them to a higher tax rate, a penalty.

We, on the Democratic side, believe we should eliminate the penalty, eliminate the unfairness, eliminate the discrimination against married people under the Tax Code. You would think from their arguments on the floor that is where the Republicans are. But that is not what their bill says, not at all. In fact, when you look closely at their bill, you find two amazing things: First, on the whole question of the marriage tax penalty, there are about 65 provisions in the Tax Code that could be associated with a marriage tax penalty. The Republicans, who have given speeches all morning about the marriage tax penalty, address how many of the 65 provisions? In the most generous definition: three, leaving some 62 discriminations in the Tax Code against married people untouched in the Republican bill.

The Democratic alternative addresses all 65.

So after all these pronouncements about ending Tax Code discrimination, the Republican bill falls flat on its face when it comes to addressing the 65 different provisions in the Tax Code that apply. The Democratic bill applies it to all 65.

The second thing that strikes you right off the bat is that the Republican bill goes further than eliminating the marriage tax penalty. It, in fact, creates an additional tax bonus for those not suffering the penalty. We are not talking about couples who are calculating how many days they have to wait to avoid paying taxes before they decide to get married. We are talking about couples who really benefit from marriage, and their taxes go down—the Republicans add more tax cuts for them.

Everybody loves a tax cut. If we could give a tax cut to every American, that would be the dream of every politician. But the voting public in America, the people watching this debate, have the right to step back and say: How many of these tax cuts can we afford, as a nation, to give away? I think that is a legitimate point. The Finance Committee in the Senate writes the tax laws, the committee that sent us this bill that is pending. If you look at the minority views, from the Democratic side, you find many Democratic Members believe the best thing we can do with our surplus is to pay down the Federal debt. That is my position. That is the position of the President and most Democrats. Why is that important? Because today in America we will collect $1 billion in taxes from individuals, families, and businesses, and that money will be used not to educate a child, to pay a soldier, or to build a highway; it will be used to pay interest on old debt of the United States.

If we do not change that, it means my grandchild, who is now about 4 years old, will continue to pay taxes, to pay interest on debt incurred by my generation to build our roads and educate our kids.

Some of us think the fairest thing we can do for future generations is to reduce the public debt with our surplus so that perhaps that $1 billion tax bill each day will be reduced for future generations. Relieving this burden is a good gift to give our children and grandchildren.

If one listens to the other side of the aisle, they do not want to take the surplus and pay down the debt. They want to dream up more and more tax cuts. The George W. Bush tax cut is so big, so massive, and so risky that last week not a single Republican would vote for it on the Senate floor when I called for a vote.

He wants to spend—I hope I get these figures right—$1.3 trillion. I believe it was $400 billion or $500 billion more than the surplus. He obviously wants to reach deep into the Social Security trust funds to pay for his tax cuts or to cut spending on basic services for education, protection of the environment, and defense. Not a single Republican would stand up for that, and I am glad they did not. Most Americans know better.

The Senate Republicans now have a George W. Bush tax cut; they want to come in and keep hacking away at the surplus instead of putting it to reducing the national debt, which on the Democratic side we consider to be the highest priority.

The expected 10-year budget surplus, according to the Finance Committee, is $893 billion. It is amazing that in a short period of time, we can talk about those surpluses.

If this bill passes, the Republicans will have already spent over half that in this session on tax cuts. Instead of lowering the national debt, reducing the tax burden on future generations, preserving Social Security and Medicare, they would have us continue on with tax cuts.

Take a close look at the Republican marriage tax penalty bill. First, the tax cuts they offer are piecemeal rather than comprehensive. They are not fiscally responsible because we are not putting money away for reducing the national debt. More than half the taxpayer benefits in their bill go to people already receiving a tax bonus. These are not people discriminated against; these are people doing well under the Tax Code, and they want to give them an additional tax cut.

They do not eliminate the marriage penalty, some 65 provisions; at best, they only address 3. Here is the kicker about which they do not want to talk. They have drawn their bill up in a way so that 5 million Americans will actually pay higher taxes. Their intent was to reduce the tax burden for married people. They went further than they had to. On the bottom, the last page, take a look around the corner. Five million Americans end up paying higher taxes under the alternative minimum tax.

Isn't that something? Take a look at this on a pie chart to get an idea, from the Republican plan, how much is being spent on the actual marriage tax penalty relief: 40 percent. Of the amount of money they have put on the table—$248 billion roughly over 10 years in tax cuts—40 percent of it goes to marriage penalty relief; 60 percent goes to people already receiving a bonus under the Tax Code for being married; and, of course, they raise taxes on 5 million Americans by increasing the alternative minimum tax.

On the Democratic side, we think there is a better alternative. In the Finance Committee proposal, the one that will be before us, married couples will be allowed to file separately or jointly, whatever benefits them from a tax point of view. We fully eliminate all marriage penalties in the Tax Code—all of the 65 provisions. It is fiscally responsible. The price tag is about $150 billion over 10 years, a little over half of what the Republican proposal costs. It does not expand marriage bonuses, and it does not exacerbate the singles penalty.

Why do we want to reduce this idea of tax cuts? First, we think we should be reducing the national debt, paying it down, which is good for the economy, as Chairman Alan Greenspan of the Federal Reserve tells us. In so doing, we strengthen Social Security; most Americans agree that is a pretty high priority for all families, married or not.

We also believe strengthening Medicare, which is something the Republicans never want to talk about, is good for the future of this country, for the elderly and disabled. It is an absolute lifeline. We believe if we are careful and target tax cuts, there are some things we can achieve which are good for this Nation.

One is a proposal which, in my State of Illinois, is very popular, which is the idea of the deductibility of college education expenses up to $10,000. It means if parents are helping their son or daughter through college and pay $10,000 of the tuition bill, they can deduct it, which means a $2,800 benefit to the family paying college expenses. That is going to help a lot of families in my home State. I certainly think that makes more sense than the Republican approach in the marriage tax penalty bill which provides a bonus to people already receiving the tax bonus.

The other item we think should be the prime focus when we talk about targeting tax benefits relates to the prescription drug benefit which has been talked about for years on Capitol Hill. The Medicare plan, conceived by President Lyndon Johnson and passed in the early sixties, was a health insurance plan for the elderly and disabled which made a significant difference in America. Seniors live longer; they are healthier; they have better and more independent lives. I have seen it in my family; most have seen it in theirs. We want it to continue.

There is a noted gap in that Medicare policy, and that noted gap is prescription drug coverage. Virtually every health insurance policy in America now covers prescription drugs but not Medicare. The Republicans have come in with all sorts of ideas for tax cuts, but they cannot come up with the money to pay for a prescription drug benefit under Medicare.

We on the Democratic side think this should be the first priority, not the last. In fact, we put a provision in our budget resolution, with a contentious vote, I might add, to raise that to $40 billion to pay for it. It has already been cut in half in the budget conference committee. There is no will on the Republican side for a prescription drug benefit.

They want to talk about a marriage penalty benefit for those who are not suffering a penalty. We want to talk about a prescription drug benefit for the elderly and disabled who are penalized every day when they cannot afford to pay for their prescriptions.

Perhaps my friends on the other side of the aisle do not understand the depth of this problem. We have seniors in some States who are literally getting on buses and riding to Canada to buy prescription drugs because they cost half as much in Canada as they do in border States such as North Dakota, Minnesota, and Montana. They understand this. They want us to do something about it, but the first tax cut bill that comes before us since we passed our budget resolution is not about prescription drugs, it is about a marriage penalty bonus for people who are not facing a marriage penalty.

I will tell you how bad this drug crisis is for seniors. Their coverage is going down. About a third of seniors have great coverage on prescription drugs, a third mediocre, and a third none at all. At the same time, the cost of these drugs is going up. There was a time when drug prices went up once a year. Then the drug companies realized they could hike their prices twice a year, then once a month, and then every other week. If my colleagues talk with pharmacists or doctors or seniors themselves, they will tell you exactly what I am talking about: Prescription drug costs are going up; coverage is going down.

Take a look at the type of bills seniors are facing. Prescription drugs are a burden on moderate income beneficiaries: typical drug costs versus income. For a patient with heart trouble and osteoporosis, typical drugs cost $2,400, 20 percent of pretax income—20 percent if they are living at 150 percent of poverty. That is an income of about $12,000 a year.

High blood pressure—one can see the percentages go up: 20 percent, 26 percent; arthritis and osteoporosis, 31 percent; high blood pressure, heart disease, 40 percent. Heart disease and severe anemia, more than a person's income.

In the city of Chicago, we had a hearing on prescription drug benefits. Some of the stories that were told were memorable. I can recall several organ recipients, transplant recipients, who came to us facing monthly prescription bills of $1,000 or $2,000. These people, on a fixed income, could not handle it. Medicare only covered it for 3 years. They knew what the cost of prescription drugs meant because for them it was a matter of life or death. Without their drugs, after transplant surgery, they could not survive.

There were some who were not in a serious condition but they could tell me about $200, $400, and $500 a month in prescription drug costs. Many times, seniors then make a choice: Will they take the medicine or not? Will they take half the prescription or the full prescription? Will they choose between food or medicine? That is a real world choice.

We on the Democratic side think a prescription drug benefit should be the first priority out of the box. We believe we can pass marriage penalty relief that addresses the problem, solves it for the vast majority of couples affected by it, and leaves enough money for a prescription drug benefit. That is our alternative to the Republican proposal.

The Republicans want it all to be on the side of marriage tax penalty relief and marriage bonus. We think prescription drug benefits should be part of it. That will be the choice on the floor for Democrats and Republicans.

Let's hear your priorities, whether or not you think a prescription drug benefit should be a high priority. We certainly do.

Look at how drug costs are growing each year. I mentioned earlier, they go up almost on a weekly basis: 9.7 percent in 1995; continuing to grow to 16 percent in 1999.

Of course, drug companies are in business to make a profit. They need to make a profit for research to find new drugs. That is a given. I accept that. A company such as Schering-Plough, that sells Claritin, that spends a third of its revenue on advertising—how many times have you seen the Claritin ads on television, in magazines, in newspapers?—Spends only 11 percent of their revenue on research. We realize the costs are going up for the advertising more than for the research.

We believe that as these costs continue to rise, seniors will continue to be disadvantaged. As I have mentioned, seniors —most of them—are on a fixed income and really have nowhere to turn to pay for these drugs.

Mr. President, 57 percent of seniors make under $15,000 a year; 21 percent make above that but under $25,000. You get to the categories of seniors who make over $25,000, and that is about one out of five seniors; four out of five make less. So as the prescription drug costs go up, their ability to pay is being stretched.

We think this prescription drug benefit then will have a great advantage for seniors. It will give them some peace of mind. The doctors who prescribe these drugs will understand that their patients will be able to afford them and take them.

What is the alternative? If an elderly person goes to see a doctor, and the doctor prescribes a drug, and the elderly person goes to the pharmacy and finds out they cannot afford the drug, and they then do not take the drug, and they get sick enough to go to the hospital, who pays for the hospitalization under Medicare? Raise your hands, taxpayers. We all do.

When someone gets sick and goes to the hospital, under Medicare, taxpayers pay for it. Yet we do not pay for the prescription drugs to keep people well and out of the hospital. That does not make any sense. It does not make sense medically. No doctor, no senior, would believe that is the best way to deal with this.

So we are talking about changing this system for the prevention of illness and disease, for the prevention of hospital stays, and for reductions in the costs to the Medicare program. It is a real cost savings.

It isn't just enough, as I have shown from these charts, for us to provide the benefit for seniors so they can pay for prescription drugs. We have to deal with the whole question of pricing, the cost of these drugs.

How will we keep these costs under control? People in my part of the world, probably all across the United States, get a little nervous when you talk about the Government being involved in pricing. They say: I am not quite sure the Government should be doing that.

They have a right to be skeptical. But let's step back and take an honest look at this. Is there price fixing now when it comes to the cost of drugs? Yes.

Insurance companies contact drug companies and say: If you want the doctors under our insurance policy to prescribe your drugs, we will pay you no more than the following cost. That is a fact of life. The bargaining is going on.

If these same drug companies take their drugs up to Canada to sell them, the Canadian Government says: You cannot sell them in Canada unless we can establish the ceiling for your prices.

That is why the same prescription drugs—made by American companies, in American laboratories, by American technicians, approved by the Food and Drug Administration of the United States of America—when they cross that border, in a matter of minutes, they become a Canadian product sold at half the cost. That is why American seniors get on buses and go up there, to buy those drugs at half the cost.

The Canadians speak out when it comes to the price of drugs, as do the Mexicans and the Europeans and every other industrialized country in the world.

Oh, the Veterans' Administration here in the United States bargains for drugs, too. We want to get the best deal for our veterans. We tell the pharmaceutical companies: This is the maximum we will pay. They sell it to us.

The only group that does not have bargaining power is the seniors and disabled under Medicare. They are the ones who pay top dollar for the drugs in America. Is that fair? Is it fair that the people of moderate income, of limited resources, are the ones who pay the highest price?

That is why we on the Democratic side believe a prescription drug benefit should be the first tax cut that we consider, if you want to call it that, because it affects a program such as Medicare.

But on the Republican side, no, it isn't a high priority. It isn't in this bill. There is no money set aside for it. There isn't a sufficient amount of money set aside for it in the budget resolution presently in conference.

That is the difference. It is a significant difference.

If you take a look at the prescription drug coverage by income level, here is what you find. Those who are below the poverty level, 35 percent of them have no prescription drug coverage. For those barely at poverty and above, it is 44 percent. You will see that as you make more and more money, you have more and more likelihood that you will have drug coverage.

The lower income Americans, the lower income seniors, and the disabled are the ones who do not have prescription drugs protection.

We think the prescription drug benefit should really hit several principles. Any plan that does not is a phony plan. The plan should cover all. There should be universal coverage. Do not pick and choose. Every American should be allowed to be covered under this plan. No. 2, it should have basic and catastrophic coverage. No. 3, it should be affordable.

We think if you put these together, you can come up with a prescription drug benefit the President has asked for, which the Democrats in Congress support, and which the Republican bill before us does not even consider.

We will come back with an alternative, a Democratic substitute, to give this Chamber a choice. You can take the Republican approach and give tax cuts to those who do not need them or you can take the Democratic approach and eliminate the marriage tax penalty for the vast majority of young people who want to be married—all 65 provisions in the Tax Code—and have enough money remaining to deal with a valid prescription drug benefit.

The difference is this. We buy the premise of what the President said in his State of the Union Address, that we happen to be living in good times but we should be careful about our future. If we are going to have surpluses, let us invest them in things that count. Let us pay down the national debt. Let us strengthen Social Security. Let us strengthen Medicare and target the tax cuts where they are needed the most.

Some of the Republicans are running around Capitol Hill like folks with hot credit cards. They cannot wait to come up with a new tax cut—needed or not needed. We think we have to be more careful. If we are more careful, if we show some fiscal discipline, we can not only avoid the deficits of the past, heaping them on the national debt, but we can be prepared for any downturn in this economy as well. I think that is fiscally conservative—a term Democrats aren't usually allowed to use but certainly applies in this situation—and it is fiscally prudent. It is the way a family deals with its situation. Before you run out and pay for that big vacation, you might think about paying off some of the credit card debt. I think a lot of families think that way. The Republican leadership in the Senate does not.

Instead of paying down the debt of this country, they want to give away the tax revenues in a surplus, give it back to the people. They can give it back, but still we will collect $1 billion a day in interest on old debt.

The provision we will be bringing before the Senate during the course of this debate will offer those who are truly fiscally conservative on both sides of the aisle a viable option. We are going to address all 65 provisions in the Tax Code that have a marriage tax penalty effect. The Republican bill goes after the standard deduction and partially addresses two others: Rate brackets and earned-income tax credits.

Among the 62 provisions the Republican bill does not address on the marriage tax penalty but the Democratic optional, single-filing alternative does are adoption expenses. Doesn't that make sense, that we wouldn't want to discriminate against couples who may want to adopt?

Child tax credits, think about that for a second. A couple wants to get married. They may have some children. We want to give them the child care tax credit. The Republican bill doesn't protect them against the discrimination that might be part of it.

Taxation of Social Security benefits, savings bonds for education, none of these is covered by the Republican bill; IRA deductions, student loan interest deductions, elderly credits—the list goes on.

After their pronouncements and speeches about what a serious problem this is, their bill really comes up short. It doesn't address the basic problem. It provides tax cuts that are not asked for or needed. It shortchanges the opportunity to put money into a prescription drug benefit.

We think it is far better to take an approach which is fiscally prudent, conservative, sensible, and straightforward.

We also believe that during the course of this session we will be considering other targeted tax benefits. We can only have limited amounts and still bring down this national debt, so let's spend the money where it will be the most effective: A prescription drug benefit, No. 1; the deductibility of college education expenses, No. 2. If you send a son or daughter to college, you will have a helping hand from the Tax Code to pay for those growing expenses.

A third, which the President has proposed and which I think makes sense, is a long-term care credit. How many

people have parents and grandparents who are growing older and need additional care? We know it is expensive. Because of that additional expense, we want to provide a tax credit to help defray some of those costs. Those are very real and serious family challenges.

As much has been said on the floor about the marriage penalty and the reverence for families, which I agree is the backbone of this country, let's take a look at families in a little different context, not just on wedding day but when those families are raising their children and sending them to college, when those families are caring about their parents and grandparents who meant so much to them. Our targeted tax cuts go after all of those elements because, on the Republican side, they heap tax cuts on those who, frankly, do not need them, those who are not facing a marriage penalty. They cannot have enough money left to pay down our debt and have the resources for a targeted tax cut along the lines I have suggested.

I see my colleague from Wisconsin has come to the floor. I know my time is limited. I ask the Chair how much time I have remaining.

The PRESIDING OFFICER (Mr. GRAMS). The Senator has 16 minutes remaining.

Mr. DURBIN. I thank the Chair and yield the floor to my colleague from Wisconsin, Senator FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, one thing observers of the Senate are not likely to see today is anyone defending the marriage penalty. The tax code should not discourage the act of getting married, and it should not encourage divorce.

There is widespread agreement that Congress should pass marriage penalty relief. The President's budget included a proposal to address the marriage penalty. And last week, the Senate voted 99–1 in favor of sense of the Senate language calling on us to ''pass marriage penalty tax relief legislation that begins a phase down of this penalty in 2001.''

The marriage penalty is particularly burdensome for lower-income couples—and many young couples don't have much to spare. For some of these couples, the amount of their taxes could actually affect their decision whether or not to marry. Luckily, in the vast majority of cases, in the words of a recent law review article, love triumphs over money.

But in this debate that the majority has scheduled for the week before the April 15 tax deadline, one can be forgiven for harboring the suspicion that more than marriage penalty relief is involved.

For one thing, on this subject on which there is a broad consensus, the majority appears unwilling to work out a compromise with the President or with Democrats. Rather, the majority seems driven more to create election-year campaign talking points than real tax relief.

For another thing, on this bill, for the third time this year already, the majority seems willing to plow ahead on major tax cut legislation before even adopting its own fiscal plan in the form of a budget resolution. To recount, in early February, the Senate passed a $103 billion tax cut as part of the bankruptcy bill. Then, in early March, the Senate passed another $21 billion tax cut for education savings accounts. And now in April, the Senate is considering another $248 billion in tax cuts labeled as marriage penalty relief. So the majority this year has already moved $372 billion in tax cuts—at an average rate of $124 billion a month—before it has even adopted its budget resolution.

And you need to add to that the approximately $80 billion in debt services that tax cuts of such a size would require. That yields roughly $450 billion of the surplus that this Senate will have spent in just three months—an average of $150 billion a month. And that doesn't even count the health tax cut provisions that we can expect in the Patients Bill of Rights bill. And that also doesn't count the other multi-billion-dollar reconciliation tax cut that the budget resolution calls for no later than September 22.

Some said that the majority brought up the amendment to the Constitution to prevent flag burning when they did because the American Legion was having a convention that week. Now, it seems that they are bringing up the marriage penalty because tax day is coming. What the majority chooses to call up seem more driven by the calendar than by legislative sense.

Moving so many tax bills so early in the year raises another suspicion as well—that if we waited, we would find that there is not enough money to do everything that the majority wants.

The Senate's consideration of a tax cut this size is also premature because the majority continues to push tax cuts before doing anything to extend the life of Social Security, before doing anything to extend the life of Medicare, or before doing anything to make prescription drugs available to seniors who need them.

Yes, Social Security is projected to run cash surpluses on the order of $100 billion a year for the next decade, but beginning in 2015, it is projected to pay out more in benefits than it takes in in payroll taxes. Medicare Hospital Insurance benefit payments will exceed payroll tax revenues as early as 2007.

The tax cuts that the Senate has passed and that we debate today would phase in so that their full impact would come just as the Nation begins to need surpluses in the non-Social Security budget to help address these Social Security and Medicare commitments.

In 2010, the marriage penalty bill before us today alone will cost $40 billion a year. Rather than pay down our debt to free up resources for our coming needs, these tax cuts would add to our future obligations. To commit resources of this magnitude without addressing the long-term solvency of Social Security and Medicare is simply irresponsible.

The size of the tax cut before us today flows in large part from its scatter-shot approach. According to the Center on Budget and Policy Priorities, it delivers a comparable amount of benefits to those who enjoy marriage bonuses as to those who suffer from marriage penalties. And according to Citizens for Tax Justice, more than two-thirds of this tax bill's benefits would go to the fewer than one-third of couples with incomes of more than $75,000. Are tax cuts for the well-off really our most pressing national need? A more targeted approach could save money and leave us better prepared to address our coming fiscal commitments.

Our economy is strong and has benefitted from sound fiscal policy. Monday's papers reported that unemployment has remained below 4½ percent for fully two years now. The Nation continues to enjoy the longest economic expansion in its history. And home ownership is at its highest rate on record.

We have this strong economy in no small part because of the responsible fiscal policy we have had since 1993. That responsible policy has meant that the government has borrowed less from the public than it otherwise would have, and indeed is projected to have paid down nearly $300 billion in publicly-held debt by October. No longer does the government crowd out private borrowers from the credit market. No longer does the government bid up the price of borrowing—interest rates—to finance its huge debt. Our fiscal policy has thus allowed interest rates to remain lower than they otherwise would be, and businesses large and small have found it easier to invest and spur new growth.

Passing large tax cuts like the one before us today without addressing the long-run needs of Social Security and Medicare risks returning to the budgets of 1992, when the government ran a unified budget deficit of $290 billion and a non-Social Security deficit of $340 billion. It risks returning to the Congressional Budget Office's 1993 projection of a unified budget deficit that would climb to $513 billion in 2001, instead of the unified budget surplus of $181 billion and non-Social Security surplus of $15 billion that we now enjoy.

Any young couple would be well-advised to do a little financial planning before entering into a marriage. We can ask the Senate to do no less.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I know there will be a lot of time for debate

later today and tomorrow, and perhaps in the future, on the so-called marriage penalty. I want to respond to two points that several of our Republican colleagues have made with respect to the Finance Committee bill, the majority bill.

The first claim is that the Finance Committee bill, the majority bill, eliminates the marriage penalty. Not true. It does reduce the marriage penalty for some people, to some extent, but it does not eliminate the marriage penalty.

Why do I say that? Well, first, let me show you this chart. This chart basically shows, in the main, that there are 65 provisions in the Tax Code that create a marriage tax penalty; 65 different provisions in the code create the so-called marriage tax penalty, the inequity that married people pay. The Republican bill, the Finance Committee bill, addresses some of them. How many? Out of the total of 65, how many do you suppose the Finance Committee addresses? A grand total of three. So 62 of the provisions in the Internal Revenue Code that cause a marriage tax penalty are not addressed by the Finance Committee bill.

Let me give you an example. One is the deduction for interest on student loans. The phaseout for this begins at $40,000 for unmarried individuals and about $60,000 for joint return filers. So if two young people each earn $35,000 and they marry, they get hit harder by the phaseout. In other words, they pay a marriage tax penalty. It is not covered by the Finance Committee bill. It is covered by the alternative to be offered by Senator MOYNIHAN.

Another example in the Finance Committee bill is not covered. A marriage tax penalty that is not taken care of is Social Security for seniors. The tax threshold for Social Security for seniors is $25,000 for individuals and $32,000 for couples. Again, a marriage tax penalty. What does the Republican bill, the Finance Committee bill, do about these provisions? Nothing. They are not among the three penalties the Republican bill addresses. The Democratic proposal, in contrast, addresses all 65 marriage tax penalty provisions—all of them. Not 3, not 4, not 5, but all of them, all 65.

So, again, the Finance Committee bill does not eliminate the marriage tax penalty. The Democratic alternative does.

There is a second point made on the floor today that I would like to address. About half of the relief in the Finance Committee bill goes to people who don't pay a marriage tax penalty today. They get a so-called bonus, or they get neither a penalty nor a bonus. That is this chart. This chart shows that less than half of the relief in the majority bill goes to the marriage tax penalty; that is, more than half goes to people who don't have a marriage tax penalty, who are already in a bonus situation.

Some argue, well, gee, we should not penalize couples, such as those with a stay-at-home spouse, by denying them the same tax cut we provide to couples who face a marriage tax penalty. Frankly, that is a red herring, as lawyers say. That is totally beside the point. Obviously, we have nothing against people who receive a tax bonus. Nobody wants to penalize them. But let's be honest. If we are providing half the relief to people who don't pay a marriage tax penalty, it is simply not a marriage tax penalty bill anymore; it is a tax cut bill, and we should evaluate the bill on that basis.

Let's talk about singles, for example. The marriage tax penalty relief bill that we are talking about is going to proportionally put more burden on individuals, single taxpayers, on widows who are not heads of households, widowers. They are going to be hit indirectly because of the action that will probably be taken at a later date on this floor. In the main, this is not a marriage tax penalty bill out of the Finance Committee; it is primarily a tax cut bill.

That kind of tax cut compared with other priorities may or may not make sense. What about prescription drugs, long-term care, retirement security? I don't think we have addressed those issues enough on this floor; that is, trying to determine what our priorities should be, given the limited number of dollars we have in the budget surplus.

Another thing. Viewed as a tax cut, the majority bill is completely arbitrary. There is no particular rhyme or reason to it. If you are married and pay a marriage tax penalty, you get a tax cut. If you are married and pay no marriage tax penalty, you get a tax cut. That is what the Finance Committee bill does, in the main. If you are married and get a tax bonus, you still get a tax cut. That is what the committee bill does.

If you are single, you get no tax cut. In fact, the disparity between married and single taxpayers widens to where it was before 1969.

Think about this for a moment. If you are married, have no children, you are receiving the so-called marriage bonus, you get a tax cut. If, on the other hand, you are a single mom and you have three kids, you get zero tax cut. Is that what we want to do?

So the Finance Committee bill doesn't eliminate the marriage penalty. It simply does not. Sixty-two of the marriage penalties in the code are not addressed by the Finance Committee bill. Only three are.

There are many others I have not mentioned which are very big and have a very big effect.

In addition, the majority committee bill provides a large tax cut unrelated to the marriage tax penalty. It is a large tax cut which has nothing to do with the marriage tax penalty.

I am saying briefly, because my time is about to expire, that there are some major flaws in the majority bill. I have only touched on a couple of them. There are many more which will be brought out later in the debate.

I urge my colleagues, people around the country watching this on C-SPAN, other offices, and the press to take a good look at the majority bill because there are some real problems with it. I hope we can straighten them out and fix them very soon.

I yield the floor.

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## WORKER ECONOMIC OPPORTUNITY ACT

The PRESIDING OFFICER. The clerk will report S. 2323 by title.

The bill clerk read as follows:

A bill (S. 2323) to amend the Fair Labor Standards Act of 1938 to clarify the treatment of stock options under the Act.

The Senate proceeded to consider the bill.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from Kentucky, Mr. MCCONNELL, is recognized.

Mr. MCCONNELL. Mr. President, I want to speak on behalf of the pending measure, the Worker Economic Opportunity Act, which the Senate will pass shortly.

This bipartisan bill will ensure that American workers can receive lucrative stock options from their employers—once considered the exclusive perk of corporate executives.

Senator DODD and I have worked closely with Senators JEFFORDS and ENZI, ABRAHAM, BENNETT, and LIEBERMAN, the Department of Labor, and others to develop this critical bill.

We have the support of groups representing business and workers, as well as Secretary Alexis Herman. In short, everybody wins with this proposal.

All over the country today, forward-thinking employers are offering new financial opportunities—such as stock options—to hourly employees.

Unfortunately, it appears that our 1930's vintage labor laws might not allow the normal workers of the 21st century to reap these benefits.

When we realized this, we decided to fix this problem. It would be a travesty for us to let old laws steal this chance for the average employee to share in his or her company's economic growth.

The Workers Economic Opportunity Act is really very simple. It says that it makes no difference if you work in the corporate boardroom or on the factory floor—everyone should be able to share in the success of the company.

In sum, the bill would amend the Fair Labor Standards Act to ensure that employer-provided stock option programs are allowed, just like employee bonuses already are.

Also, this legislation includes a broad ''safe harbor'' that specifies that employers have no liability because of any stock options or similar programs that they have given to employees in the past.

I hope that this bill will be the first of many commonsense efforts to drag old labor and employment laws into the new millennium.

Mr. President, we need to pass this law. The Federal Reserve Board of Governors recently estimated that 17 percent of firms have introduced stock option programs.

They went on to say that over the last two years, 37 percent of these employers have broadened eligibility for their stock option programs—allowing even more American workers to share in their employers' prosperity.

The Employment Policy Foundation estimates between 9.4 million and 25.8 million workers receive benefits through some type of equity participation program.

This trend is growing, and given the current state of the economy, it is likely to continue to grow.

However, we have one last thing we have to do to make sure that American workers can have this incredible opportunity—we have to pass this bill.

Without it, our ''New Deal'' labor laws will strangle the benefits our ''New Economy'' offers to American workers.

Mr. President, I ask unanimous consent that a letter of support from the United States Chamber of Commerce be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
*Washington, DC, April 7, 2000.*

Hon. MITCH MCCONNELL,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR MCCONNELL: I am writing to express the support of the United States Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector and region, for S. 2323, the Worker Economic Opportunity Act.

Last year the U.S. Department of Labor issued an advisory letter stating that companies providing stock options to their employees must include the value of those options in the base rate of pay for hourly workers. Employers must then recalculate overtime pay over the period of time between the granting and exercise of the options. This costly and administratively complex process will cause many employers to refrain from offering stock options and similar employee equity programs to their nonexempt workers.

Clearly, the Fair Labor Standards Act needs to be modernized to reflect the fact that many of today's hourly workers receive stock options. For this reason, the Chamber strongly supports S. 2323, which would exempt stock options, stock appreciation rights, and employee stock purchase plan programs from the regular rate of pay for nonexempt workers. This carefully crafted legislation will provide certainty to employers who want to increase employee ownership and equity building by offering stock options and similar programs to their hourly workers. We commend you for negotiating a bill that is broadly supported and look forward to working with you to ensure its passage as soon as possible in this legislative session.

Again, thank you for your leadership in introducing S. 2323, legislation that is important to millions of American workers and employers.

Sincerely,

R. BRUCE JOSTEN.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the sponsors' statement of legislative intent be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT OF LEGISLATIVE INTENT BY THE SPONSORS OF S. 2323, THE WORKER ECONOMIC OPPORTUNITY ACT

I. INTRODUCTION AND PURPOSE

The purpose of S. 2323, the Worker Economic Opportunity Act, is to allow employees who are eligible for overtime pay to continue to share in workplace benefits that involve their employer's stock or similar equity-based benefits. More working Americans are receiving stock options or opportunities to purchase stock than ever before. The Worker Economic Opportunity Act updates the Fair Labor Standards Act to ensure that rank-and-file employees and management can share in their employer's economic well being in the same manner.

Employers have provided stock and equity-based benefits to upper level management for decades. However, it is only recently that employers have begun to offer these programs in a broad-based manner to non-exempt employees. Historically, most employees had little contact with employer-provided equity devices outside of a 401(k) plan. But today, many employers, from a broad cross-section of industry, have begun offering their employees opportunities to purchase employer stock at a modest discount, or have provided stock options to rank and file employees; and they have even provided outright grants of stock under certain circumstances.

The Federal Reserve Board of Governors recently estimated that 17 percent of large firms have introduced a stock options program and 37 percent have broadened eligibility for their stock option programs in the last two years.[1] The Employment Policy Foundation estimates between 9.4 million and 25.8 million workers receive benefits through some type of equity participation program.[2] The trend is growing, and given the current state of the economy, it is likely to continue.

The tremendous success of our economy over the last several years has been largely attributed to the high technology sector. One of the things that our technology companies have succeeded at is creating an atmosphere in which all employees share the same goal: the success of the company. By vesting all employees in the success of the business, stock options and other equity devices have become an important tool to create businesses with unparalleled productivity. The Worker Economic Opportunity Act will encourage more employers to provide opportunities for equity participation to their employees, further expanding the benefits that inure from equity participation.

II. BACKGROUND AND NEED FOR LEGISLATION

*A. Background on stock options and related devices*

Employers use a variety of equity devices to share the benefits of equity ownership with their employees. As the employer's stock appreciates, these devices provide a tool to attract and retain employees, an increasingly difficult task during a time of record economic growth and low unemployment in the United States. These programs also foster a broader sense of commitment to a common goal—the maintenance and improvement of the company's performance—among all employees nationally and even internationally, and thus provide an alignment between the interests of employees with the interests of the company and its shareholders. They can also reinforce the evolving employer-employee relationship, with employees viewed as stakeholders.

Employer stock option and stock programs come in all different types and formats. The Worker Economic Opportunity Act focuses on the most common types: stock option, stock appreciation right, and employee stock purchase programs.

Stock Option Programs.—Stock options provide the right to purchase the employer's securities for a fixed period of time. Stock option programs vary greatly by employer. However, two main types exist: nonqualified and qualified option programs.[3] Most programs are nonqualified stock option programs, meaning that the structure of the program does not protect the employee from being taxed at the time of exercise. However, the mechanics of stock option programs are very similar regardless of whether they are nonqualified or qualified. Some of these characteristics are described below.

*Grants.* An employer grants to employees a certain number of options to purchase shares of the employer's stock. The exercise price may be around the fair market value of the stock at the time of the grant, or it may be discounted below fair market value to provide the employee an incentive to participate in the option program.

*Vesting.* Most stock option programs have some sort of requirement to wait some period after the grant to benefit from the options, often called a vesting period. After the period, employees typically may exercise their options by exchanging the options for stock at the exercise price at any time before the option expires, which is typically up to ten years. In some cases, options may vest on a schedule, for example, with a third of the options vesting each year over a three-year period. In addition to vesting on a date certain, some options may vest if the company hits a certain goal, such as reaching a certain stock price for a certain number of days. Some programs also provide for accelerated or automatic vesting in certain circumstances such as when an employee retires or dies before the vesting period has run, where there is change in corporate control or when an employee's employment is terminated.

*Exercise.* Under both qualified and nonqualified stock option programs, an employee can exchange the options, along with sufficient cash to pay the exercise price of the options, for shares of stock. Because many rank-and-file employees cannot afford to pay the cost of buying the stock at the option price in cash, many employers have given their employees the opportunity for ''cashless'' exercise, either for cash or for stock, under nonqualified option plans. In a cashless exercise for cash, an employee gives options to a broker or program administrator, this party momentarily ''lends'' the employee the money to purchase the requisite number of shares at the grant price, and then immediately sells the shares. The employee receives the difference between the market price and the exercise price of the stock (the profit), less transaction fees. In a cashless exercise for stock, enough shares are sold to cover the cost of buying the

Footnotes at end of article.

shares the employee will retain. In either case, the employee is spared from having to provide the initial cash to purchase the stock at the option price.

An employee's options usually expire at the end of the option period. An employee may forfeit the right to exercise the options, in whole or in part, under certain circumstances, including upon separation from the employer. However, some programs allow the employee to exercise the options (sometimes for a limited period of time) after they leave employment with the employer.

*Stock Appreciation Rights.*—Stock appreciation rights (SARs) operate similarly to stock options. They are the rights to receive the cash value of the appreciation on an underlying stock or equity based security. The stock may be publicly traded, privately held, or may be based on valued, but unregistered, stock or stock equivalent. The rights are issued at a fixed price for a fixed period of time and can be issued at a discount, carry a vesting period, and are exercisable over a period of time. SARs are often used when an employer cannot issue stock because the stock is listed on a foreign exchange, or regulatory or financial barriers make stock grants impracticable.

*Employee Stock Purchase Plans.*—Employee stock purchase plans (ESPPs) give employees the opportunity to purchase employer stock, usually at up to a 15 percent discount, by either regularly or periodically paying the employer directly or by having after-tax money withdrawn as a payroll deduction. Like option programs, ESPPs can be qualified or nonqualified.

Section 423 of the Internal Revenue Code[4] sets forth the factors for a qualified ESPP. The ability to participate must be offered to all employees, and employees must voluntarily choose whether to participate in the program. The employer can offer its stock to employees at up to a 15 percent discount off of the fair market value of the stock, determined at the time the option to purchase stock is granted or at the time the stock is actually purchased. The employee is required to hold the stock for one or two years after the option is granted to receive capital gains treatment. If the employee sells the stock before the requisite period, any gain made on the sale is treated as ordinary income.

Nonqualified ESPPs are usually similar to qualified ESPPs, but they lack one or more qualifying features. For example, the plan may apply only to one segment of employees, or may provide for a greater discount.

*B. The Fair Labor Standards Act and stock options*

The Fair Labor Standards Act of 1938[5] (FLSA) establishes workplace protections including a minimum hourly wage and overtime compensation for covered employees, record keeping requirements and protections against child labor, among other provisions. A cornerstone of the FLSA is the requirement that an employer pay its nonexempt employees overtime for all hours worked over 40 in a week at one and one-half times the employee's regular rate of pay.[6] The term ''regular rate'' is broadly defined in the statute to mean ''all remuneration for employment paid to, or on behalf of, the employee.''[7]

Section 207(e) of the statute excludes certain payments from an employee's regular rate of pay to encourage employers to provide them, without undermining employees' fundamental right to overtime pay. Excluded payments include holiday bonuses or gifts,[8] discretionary bonuses,[9] bona fide profit sharing plans,[10] bona fide thrift or savings plans,[11] and bona fide old-age, retirement, life, accident or health or similar benefits plans.[12] By excluding these payments from the definition of ''regular rate,''[13] Congress recognized that certain kinds of benefits provided to employees are not within the generally accepted meaning of compensation for work performed.

Thus, by excluding these payments from the regular rate in section 207(e) of the FLSA, Congress encouraged employers to provide these payments and benefits to employees. The encouragement has worked well—employees now expect to receive from their employer at least some of these benefits (i.e., healthcare), which today, on average, comprise almost 30 percent of employees' gross compensation./14/ For similar reasons, Congress decided that the value and income from stock option, SAR and ESPP programs should also be excluded from the regular rate, because they allow employees to share in the future success of their companies.

*C. The Department of Labor's opinion letter on stock options*

The impetus behind the Worker Economic Opportunity Act is the broad dissemination of a February 1999 advisory opinion letter[15] regarding stock options issued by the Department of Labor's Wage and Hour Division, the agency charged with the administration of the FLSA. The letter involved an employer's stock option program wherein its employees would be notified of the program three months before the options were granted, and some rank-and-file employees employed by the company on the grant date would receive options. The options would have a two-year vesting period, with accelerated vesting if certain events occurred. The employer would also automatically exercise any unexercised options on behalf of the employees the day before the program ended.[16]

The opinion letter indicated that the stock option program did not meet any of the existing exemptions to the regular rate under the FLSA, although it did not explain the reasons in any detail. Later, the Administration's testimony before the House Workforce Protections Subcommittee explained that the stock option program did not meet the gift, discretionary bonus, or profit sharing exceptions to the regular rate because, among other reasons, it required employees to do something as a condition of receiving the options—to remain employed with the company for a period of time.[17] Such a condition is not allowed under the current regular rate exclusions. The testimony also noted that the program was not excludable under the thrift or savings plan exception because the employees were only allowed to exercise their options using a cashless method of exercise, and thus the employees could not keep the stock as savings or an investment.[18]

The opinion letter stated that the employer would be required to include any profits made from the exercise of the options in the regular rate of pay of its nonexempt employees. In particular, the profits would have to be included in the employee's regular rate for the shorter of the time between the grant date and the exercise date, or the two years prior to exercise.[19]

Section 207(e)'s exclusions to the regular rate did not clearly exempt the profits of stock options or similar equity devices from the regular rate, and thus from the overtime calculation. Thus, the Department of Labor's opinion letter provided a permissible reading of the statute. A practical effect of the Department of Labor's interpretation was stated by J. Randall MacDonald, Executive Vice President of Human Resources and Administration at GTE during a March 2 House Workforce Protections Subcommittee hearing on the issue: ''[i]f the Fair Labor Standards Act is not corrected to reverse this policy, we will no longer be able to offer stock options to our nonexempt employees.''[20]

As the contents of the letter became generally known in the business community and on Capitol Hill, it became clear that the letter raised an issue under the FLSA that previously had not been contemplated. It further became clear that an amendment to the FLSA would be needed to change the law specifically to address stock options.

A legislative solution was not only supported by employers at the House hearing, it was also supported by employees and unions. Patricia Nazemetz, Vice President of Human Resources for Xerox Corporation, read a letter from the Union of Needlework, Industrial and Textile Employees (UNITE), the union that represents many Xerox manufacturing and distribution employees, in which the International Vice President stated:

''Xerox's UNITE chapter would strongly urge Congress to pass legislation exempting stock options and other forms of stock grants from the definition of the regular rate for the purposes of calculating overtime. . . . It is only recently that Xerox has made bargaining unit employees eligible to receive both stock options and stock grants. Without a clarification to the FLSA, we are afraid Xerox may not offer stock options or other forms of stock grants to bargaining unit employees in the future.''[21]

At the House hearing, the Administration also acknowledged that the problem needed to be fixed legislatively in a flexible manner, ''Based on the information we have been able to obtain, there appears to be wide variations in the scope, nature and design of stock option programs. There is no one common model for a program, suggesting the need for a flexible approach. Given the wide variety and complexity of programs, we believe that the best solution would be to address this matter legislatively.''[22]

The general agreement on the need to fix the problem among these diverse interests led to the development of the Worker Economic Opportunity Act.

III. EXPLANATION OF THE BILL AND SPONSORS' VIEWS

Congress worked closely with the Department of Labor to develop this important legislation. The sections below reflect the discussions between the sponsors and the Department of Labor during the development of the legislation, and the sponsors' intent and their understanding of the legislation.

*A. Definition of bona fide ESPP*

For the purposes of the Worker Economic Opportunity Act, a bona fide employee stock purchase plan includes an ESPP that is (1) a qualified ESPP under section 423 of the Internal Revenue Code;[23] or (2) a plan that meets the criteria identified below.

*1. Qualified employee stock purchase plans*

Qualified ESPPs, known as section 423 plans, comprise the overwhelming majority of stock purchase plans. Thus, the intent of the legislation is to deem ''bona fide'' all plans that meet the criteria of section 423.

*2. Nonqualified employee stock purchase plans*

As described above, section 423 plans are considered bona fide ESPPs. Further, those ESPPs that do not meet the criteria of section 423, but that meet the following criteria also qualify as bona fide ESPPs:

(a) the plan allows employees, on a regular or periodic basis, to voluntarily provide funds, or to elect to authorize periodic payroll deductions, for the purchase at a future time of shares of the employer's stock;

(b) the plan sets the purchase price of the stock as at least 85% of the fair market value of the stock at the time the option is granted or at the time the stock is purchased; and

(c) the plan does not permit a nonexempt employee to accrue options to purchase stock at a rate which exceeds $25,000 of fair market value of such stock (determined either at the time the option is granted or the time the option is exercised) for each calendar year.

The sponsors note that many new types of ESPPs are being developed, particularly by

companies outside the United States, and that many of these companies may also intend to apply them to their U.S.-based employees. These purchase plans have several attributes which make them appear to be more like savings plans than traditional U.S. stock purchase plans, such as a period of payroll deductions of between three and five years, or an employer provided ''match'' in the form of stock or options to the employee.

Further many companies are developing plans that are similar to section 423 plans. The sponsors believe that it is in the best interests of employees for the Secretary of Labor to review these and other new types of plans carefully in the light of the purpose of the Worker Economic Opportunity Act—to encourage employers to provide opportunities for equity participation to employees—and to allow section 7(e), as amended, to accommodate a wide variety of programs, where it does not undermine employees' fundamental right to overtime pay. It is the sponsors' vision that this entire law be flexible and forward-looking and that the Department of Labor apply and interpret it consistently with this vision.

*B. ''Value or Income'' is defined broadly*

The hallmark of the Worker Economic Opportunity Act is that section 7(e)(8) provides that any value or income derived from stock option, SAR or bona fide ESPP programs is excluded from the regular rate of pay. For this reason, the phrase ''value or income'' is construed broadly to mean any value, profit, gain, or other payment obtained, recognized or realized as a result of, or in connection with, the provision, award, grant, issuance, exercise or payment of stock options, SARs, or stock issued or purchased pursuant to a bona fide ESPP program established by the employer.

This broad definition means, for example, that any nominal value that a stock option or stock appreciation right may carry before it is exercised is excluded from the regular rate. Similarly, the value of the stock or the income in the form of cash is excluded after options are exercised, as is the income earned from the stock in the form of dividends or ultimately the gains earned, if any, on the sale of the stock. The discount on a stock option, SAR or stock purchase under a ESPP program is likewise excludable.

*C. The act preserves programs which are otherwise excludable under existing regular rate exemptions*

The Worker Economic Opportunity Act recognizes two ways that employer equity programs may be excluded from the regular rate. Such equity programs may be excluded if they meet the existing exemptions to the regular rate pursuant to Section 7(e)(1)–(7), which apply to contributions and sums paid by employers regardless of whether such payments are made in cash or in grants of stock or other equity based vehicles, and provided such payment or grant is consistent with the existing regulations promulgated under Section 7(e). Employer equity plans also may be excluded under new section 7(e)(8) added by the Worker Economic Opportunity Act.

This is reaffirmed in new section 207(e)(8), which makes clear that the enactment of section 7(e)(8) carries no negative implication about the scope of the preceding paragraphs of section (e). Rather, the sponsors understand that some grants and rights that do not meet all the requirements of section 7(e)(8) may continue to qualify for exemption under an earlier exclusion. For example, programs that grant options or SARs that do not have a vesting period may be otherwise excludable from the regular rate if they meet another section (7)(e) exclusion. This would be true even if the option was granted at less than 85% of fair market value. This language was not intended to prevent grants or rights that meet some but not all of the requirements of an earlier exemption in 7(e) from being exempt under the newly created exemption.

*D. Basic communication to employees required because it helps ensure a successful program*

For grants made under a stock option, SAR or bona fide ESPP program to qualify for the exemption under new section 7(e)(8), their basic terms and conditions must be communicated to participating employees either at the beginning of the employee's participation in the program or at the time of grant. This requirement was put into the legislation to recognize that when employees understand the mechanics and the implications of the equity devices they are given, they can more fully participate in exercising meaningful choices with respect to those devices. As discussed below, this is a simple concept, it is not intended to be a complicated or burdensome requirement.

*1. Terms and conditions to be communicated to employees*

Employers must communicate the material terms and conditions of the stock option, stock appreciation right or employee stock purchase program to employees to ensure that they have sufficient information to decide whether to participate in the program. With respect to options, these terms include basic information on the number of options granted, the number of shares granted per option, the grant price, the grant date or dates, the length of any applicable vesting period(s) and the dates when the employees will first be able to exercise options or rights, under what conditions the options must be forfeited or surrendered, the exercise methods an employee may use (such as cash for stock, cashless for cash or stock, etc.), any restrictions on stock purchased through options, and the duration of the option, and what happens to unexercised options at the end of the exercise period. Pending issuance of any regulations, an employer who communicated the information in the prior sentence is to be deemed to have communicated the terms and conditions of the grant. Similar information should be provided regarding SARs or ESPPs.

*2. The mode of communications*

The legislation does not specify any particular mode of communication of relevant information, and no particular method of communication is required, as long as the method chosen reasonably communicates the information to employees in an understandable fashion. For example, employers may notify their employees of an option grant by letter, and later provide a formal employee handbook, or other method such as a link to a location on the company Intranet. Any combination of communications is acceptable. The intent of the legislation is to ensure that employees are provided the basic information in a timely manner, not to mandate the particular form of communication.

*3. The timing of communications*

The legislation specifies that the employer is to communicate the terms and conditions of the stock option, SAR and ESPP programs to employees at or before the beginning of the employee's participation in the program or at the time the employee receives a grant. It is acceptable, and perhaps even likely, that the relevant information on a program will be disseminated in a combination of communications over time. This approach allows flexibility and acknowledges that types of participation vary greatly between stock option and SAR programs, on the one hand, and ESPPs on the other.

For example, under an ESPP, an employee may choose to begin payroll deductions in January, but not actually have the option to purchase stock until June. By contrast, with an option or SAR program, employees are given the options or rights at the outset, but those rights may not vest until some year in the future.

The timing of the communication is flexible, because often it is difficult to have materials ready for employees at the beginning of a stock option or stock appreciation right program, immediately following approval by the Board of Directors, because of confidentiality requirements. Thus, within a reasonable time following approval of a stock option grant by the Board of Directors, the employer is required to communicate basic information about the grant employees have received. For example, an initial letter may notify the employees that they have received a certain number of stock options and provide the basic information about the program. More detailed information about the program may precede or follow the grant in formats such as an employee handbook, options pamphlet, or an Intranet site that provides options information.

*E. Exercisability criteria applicable only to stock options and SARs*

As discussed above, a common feature in grants of stock options and SARs is a vesting or holding period, which under current practice may be as short as a few months or as long as a number of years. For a stock option or SAR to be excluded from the regular rate pursuant to the Worker Economic Opportunity Act, new section 7(e)(8) requires that the grant or right generally cannot be exercisable for at least six months after the date of grant.

For stock option grants that include a vesting requirement, typically an option will become exercisable after the vesting period ends. Some option grants vest gradually in accordance with a schedule. For example, a portion of the employee's options may vest after six months, with the remaining portion vesting three months thereafter. Options may also vest in connection with an event, such as the stock reaching a certain price or the company attaining a performance target.

In addition, the sponsors recognize that a grant that is vested may not be currently exercisable by the employee because of an employer's requirement that the employee hold the option for a minimum period prior to exercise. In other words, there may be an additional period of time after the vesting period during which the option remains unexerciseable. An option or SAR may meet the exercisability requirements of the bill without regard to the reason why the right to exercise is delayed.

Further, if a single grant of options or SARs includes some options exercisable after six months while others are exercisable earlier, then those exercisable after the six month period will meet the exercisability requirement even if the others do not. The determination is made option by option, SAR by SAR. In addition, if exercisability is tied to an event, the determination of whether the six-month requirement is met is based on when the event actually occurs. Thus, for example, if an option is exercisable only after an initial public offering (IPO) and the IPO occurs seven months after grant, the option shall be deemed to have met the provision's exercisability requirement.

However, section 7(e)(8)(B) specifically recognizes that there are a number of special circumstances when it is permissible for an employer to allow for earlier exercise to occur (in less than 6 months) without loss of the exemption. For example, an employer or plan may provide that a grant may vest or

otherwise become exercisable earlier than six months because of an employee's disability, death, or retirement. The sponsors encourage the Secretary to consider and evaluate other changes in employees' status or circumstances.

Earlier exercise is also permitted in connection with a change in corporate ownership. The term change in ownership is intended to include events commonly considered changes in ownership under general practice for options and SARs. For example, the term would include the acquisition by a party of a percentage of the stock of the corporation granting the option or SAR, a significant change in the corporation's board of directors within 24 months, the approval by the shareholders of a plan of merger, and the disposition of substantially all of the corporation's assets.

The sponsors believe it important to allow employers the flexibility to construct plans that allow for these earlier exercise situations. However, this section is not intended to in any way require employers to include these or any other early exercise circumstances in their plans.

*F. Stock option and SAR programs may be awarded at fair market value or discounted up to and including 15%*

Stock options and SARs generally are granted to employees at around fair market value or at a discount. New section 7(e)(8)(B) recognizes that grants may be at a discount, but that the discount cannot be more than a 15% discount off of the fair market value of the stock (or in the case of stock appreciation rights, the underlying stock, security or other similar interest).

A reasonable valuation method must be used to determine fair market value at the time of grant. For example, in the case of a publicly traded stock, it would be reasonable to determine fair market value based on averaging the high and low trading price of the stock on the date of the grant. Similarly, it would be reasonable to determine fair market value as being equal to the average closing price over a period of days ending with or shortly before the grant date (or the average of the highs and lows on each day). In the case of a non-publicly traded stock, any reasonable valuation that is made in good faith and based on reasonable valuation principles must be used.

The sponsors understand that the exercise price of stock options and SARs is sometimes adjusted in connection with recapitalizations and other corporate events. Accounting and other tax guidelines have been developed for making these adjustments in a way that does not modify a participant's profit opportunity. Any adjustment conforming with these guidelines does not create an issue under the 15% limit on discounts.

*G. Employee participation in equity programs must be voluntary*

New section (8)(C) of the Worker Economic Opportunity Act states that the exercise of any grant or right must be voluntary. Voluntary means that the employee may or may not choose not to exercise his or her grants or rights at any point during the stock option, stock appreciation right, or employee stock purchase program, as long as that is in accordance with the terms of the program. This is a simple concept and it is not to be interpreted as placing any other restrictions on such programs.

It is the intent of the sponsors that this provision does not restrict the ability of an employer to automatically exercise stock options or SARs for the employee at the expiration of the grant or right. However, an employer may not automatically exercise stock options or SARs for an employee who has notified the employer that he or she does not want the employer to exercise the options or rights on his or her behalf.

Stock option, SARs and ESPP programs may qualify under new section 7(e)(8) even though the employer chooses to require employees to forfeit options, grants or rights in certain employee separation situations.

*H. Performance based programs*

The purpose of new section 7(e)(8)(D) is to set out the guidelines employers must follow in order to exclude from the ''regular rate'' grants of stock options, SARs, or shares of stock pursuant to an ESPP program based on performance. If neither the decision of whether to grant nor the decision as to the size of the grant is based on performance, the provisions of in new section 7(e)(8)(D) do not apply. For example, grants made to employees at the time of their hire, and any value or income derived from these grants, may be excluded provided they meet the requirements in new sections 7(e)(8)(A)–(C).

New section 8(D) is divided into two clauses. The first, clause (i), deals with awards of options awarded based on pre-established goals for future performance, and the second, clause (ii), deals with grants that are awarded based on past performance.

*1. Goals for future performance*

New section 7(e)(8)(D)(i) provides that employers may tie grants to future performance so long as the determinations as to whether to grant and the amount of grant are based on the performance of *either* (i) any business unit consisting of at least ten employees *or* (ii) a facility.

A business unit refers to all employees in a group established for an identifiable business purpose. The sponsors intend that employers should have considerable flexibility in defining their business units. However, the unit may not merely be a pretext for measuring the performance of a single employee or small group of fewer than ten employees. By way of example, a unit may include any of the following: (i) a department, such as the accounting or tax departments of a company, (ii) a function, such as the accounts receivable function within a company's accounting department, (iii) a position classification, such as those call-center personnel who handle initial contacts, (iv) a geographical segment of a company's operations, such as delivery personnel in a specified geographical area, (v) a subsidiary or operating division of a company, (vi) a project team, such as the group assigned to test software on various computer configurations or to support a contract or a new business venture.

With respect to the requirement to have ten or more employees in a unit, this determination is based on all of the employees in the unit, not just those employees who are, for example, non-exempt employees.

A facility includes any separate location where the employer conducts its business. Two or more locations that would each qualify as a facility may be treated as a single facility. Performance measurement based on a particular facility is permitted without regard to the number of employees who are working at the facility. For example, a facility would include any of the following: a separate office location, each separate retail store operated by a company, each separate restaurant operated by a company, a plant, a warehouse, or a distribution center.

The definitions of both a business unit and a facility are intended to be flexible enough to adapt to future changes in business operations. Therefore, the examples of business units set forth above should be viewed with this in mind.

Options may be excluded from the regular rate in accordance with new section 7(e)(8)(D)(i) under the following circumstances:

*Example 1*—Employer announces that certain employees at the Wichita, Kansas plant will receive 50 stock options if the plant's production reaches a certain level by the end of the year (note that in order to fit within this subsection, the grant does not have to be made on a facility wide basis);

*Example 2*—Employer announces that it will grant employees working on the AnyCo. account 50 stock options each if the account brings in a certain amount of revenue by the end of the year, provided that there are at least 10 employees on the AnyCo. account.

*Employer 3*—Employer announces that certain employees will receive stock options if the company reaches specified goal.

New section 7(e)(8)(D)(i) also makes clear that otherwise qualifying grants remain excludable from the regular rate if they are based on an employees' length of service or minimum schedule of hours or days of work. For example, an employer may make grants only to employees: (i) who have a minimum number of years of service, (ii) who have been employed for at least a specified number of hours of service during the previous twelve month period (or other period), (iii) who are employed on the grant date (or a period ending on the grant date), (iv) who are regular full-time employees (i.e., not part-time or seasonal), (v) who are permanent employees, or (vi) who continue in service for a stated period after the grant date (including any minimum required hours during this period). Any or all of these conditions, and similar conditions, are permissible.

*2. Past performance*

New section 7(e)(8)(D)(ii) clarifies that employers may make determinations as to existence and amount of grants or rights based on past performance, so long as the determination is in the sole discretion of the employer and not pursuant to any prior contract. Thus, employers have broad discretion to make grants as rewards for the past performance of a group of employees, even if it is not a facility or business unit, or even for an individual employee. The determination may be based on any performance criteria, including hours of work, efficiency or productivity.

Under new section 7(e)(8)(D)(ii), employers may develop a framework under which they will provide options in the future, provided that to the extent the ultimate determination as to the fact of and the amount of grants or rights each employee will receive is based on past performance, the employer does not contractually obligate itself to provide the grant or rights to an employee. Thus, new section 7(e)(8)(D)(ii) would allow an employer to determine in advance that it will provide 100 stock options to all employees who receive ''favorable'' ratings on their performance evaluations at the end of the year, and it would allow the employer to advise employees, in employee handbooks or otherwise, of the possibility that favorable evaluations may be rewarded by option grants, so long as the employer does not contractually obligate itself to provide the grants or in any other way relinquish its discretion as to the existence or amount of grants.

Similarly, the fact that an employer makes grants for several years in a row based on favorable performance evaluation ratings, even to the point where employees come to expect them, does not mean in itself that the employer may be deemed to have ''contractually obligated'' itself to provide the rights.

Some examples of performance based grants that fit within new section7(e)(8)(D)(ii) are as follows:

*Example A*—Company A awards stock options to encourage employees to identify with the company and to be creative and innovative in performing their jobs. Company A's employee handbook includes the following: ''Company A's stock option program is a long-term incentive used to recognize the potential for, and provide an incentive for, anticipated future performance and contribution. Stock option grants may be awarded to employees at hire, on an annual basis, or both. All full-time employees who have been employed for the appropriate service time are eligible to be considered for annual stock option grants.''

Company A provides stock options to most nonexempt employees following their performance review. Each employee's manager rates the employee during a review process, resulting in a rating of from 1 to 5. The rating is based upon the manager's objective and subjective analysis of the employee's performance. The rating is then put into a formula to determine the number of options an employee is eligible to receive, based on the employee's level within the company, the product line that the employee works on, and the value of the product to the company's business. Employees are aware a formula is used. The Company then informs the employee of the number of options awarded to him or her.

Managers make it clear to employees that the options are granted in recognition of prior performance with the expectation of the employee's future performance, but no contractual obligation is made to employees. This process is repeated annually, with employees eligible for stock options each year based on their annual performance review. Most employees receive options annually based upon their performance review rating and their level in the company.

*Example B*—Company B manages its program similarly to company A, with some notable exceptions. Company B has a very detailed performance management system, under which all employees successfully meeting the expectations of their job receive options. The employee's job expectations are more clearly spelled out on an annual basis than under Company A's plan. Once a year, the employee undergoes a formal, written, performance review with his or her manager. If work is satisfactory, the employee receives a predetermined but unannounced number of options. Unlike Company A, which provides different amounts of options to employees based upon a numeric performance rating, Company B provides the same number of options to all employees who receive satisfactory employment evaluations. Over 90 percent of Company B's employees receive options annually, and in many years, this percentage exceeds 95 percent.

In both Example A and Example B, the employers set up in advance the formula under which option decisions are made; however, the decisions as to whether an individual employee would receive options and how many options he or she would receive was made based on past performance at the end of the performance period, but not pursuant to a prior contractual obligation made to the employees. The fact that the employer determines a formula or program in advance does not disqualify these examples from new section 7(e)(8).

*I. Extra compensation*

The Worker Economic Opportunity Act also amends section 7(h) of the FLSA (29 U.S.C. § 207(h)) to ensure that the income or value that results from a stock option, SAR or ESPP program, and that is excluded from the regular rate by new section 7(e)(8), cannot be credited by an employer toward meeting its minimum wage obligations under section 6 of the Act or overtime obligations under section 7 of the Act. The language divides section 7(h) into two parts, 7(h)(1) and 7(h)(2). Section 7(h)(1) states that an employer may not credit an amount, sum, or payment excluded from the regular rate under existing sections 7(e)(1–7) or new section 7(e)(8) towards an employer's minimum wage obligation under section 6 of the Act. When section 7(h)(1) is read together with section 7(h)(2), it states that an employer may not credit an amount excluded under existing sections 7(e)(1–4) or new section 7(e)(8) toward overtime payments. However, consistent with existing 7(h), extra compensation paid by an employer under sections 7(e)(5–7) may be creditable towards an employer's overtime obligations. This change shall take effect on the effective date but will not affect any payments that are not excluded by section 7(e) and thus are included in the regular rate.

*J. The legislation includes a broad pre-effective date safe harbor and transition time*

In drafting the Worker Economic Opportunity Act, the sponsors hoped to create an exemption that would be broad enough to capture the diverse range of broad-based stock ownership programs that are currently being offered to non-exempt employees across this nation. However, in order to reach a consensus, the new exemption had to be tailored to comport with the existing framework of the FLSA. The result is a series of requirements that stock option, SAR and ESPP programs must meet in order for the proceeds of those plans to fit within the newly created exemption.

Because of the circumstances that give rise to this legislation, the pre-effective date safe harbor is intentionally broader than the new exemption. The sponsors did not want to penalize those employers who have been offering broad-based stock option, SAR and ESPP programs simply because these programs would not meet all the new requirements in section 7(e)(8). Thus, the safe harbor in section 2(d) of the Act comprehensively protects employers from any liability or other obligations under the FLSA for failing to include any value or income derived from stock option, SAR and ESPP programs in a non-exempt employee's regular rate of pay. The safe harbor applies to all grants or rights that were obtained under such programs prior to the effective date, whether or not such programs fit within the new requirements of section 7(e)(8). If a grant or right was initially obtained prior to the effective date, it is covered by the safe harbor even though it vested later or was contingent on performance that would occur later. In addition, normal adjustments to a pre-effective date grant or right, such as those that are triggered by a recapitalization, change of control or other corporate event, will not take the grant or right outside the safe harbor.

On a prospective basis, the sponsors realized that many employers would need time to evaluate their programs in light of the new law and to make the changes necessary to ensure that the programs will fit within the new section 7(e)(8) exemption. Consequently, the sponsors adopted a broad transition provision to apply to stock option, SAR and ESPP programs without regard to whether or not they meet the requirements for these plans set forth in the legislation. Specifically, section 2(c) of the legislation contains a 90-day post enactment delayed effective date. The sponsors believe that the vast majority of employers who offer stock option, SAR and ESPP programs to non-exempt employees will be able to use the transition period in section 2(d)(1) to modify their programs to conform with the requirements of the legislation.

In addition, the sponsors felt that there were two circumstances where a further extension of this broad transition relief was appropriate. First, the legislation recognizes that some employers would need the consent of their shareholders to change their plans. Section 2(d)(2) provides an additional year of transition relief to any employer with a program in place on the date this legislation goes into effect that will require shareholder approval to make the changes necessary to comply with the new requirements of section 7(e)(8). Second, the legislation extends the transition relief to cover situations wherein an employer's obligations under a collective bargaining agreement conflict with the requirements of this Act. Section 2(d)(3) eliminates any potential conflict by allowing employers to fulfill their pre-existing contractual obligations without fear of liability.

V. REGULATORY IMPACT STATEMENT

The sponsors have determined that the bill would result in some additional paperwork, time and costs to the Department of Labor, which would be entrusted with implementation of the Act. It is difficult to estimate the volume of additional paperwork necessitated by the Act, but the sponsors do not believe that it will be significant.

VI. SECTION-BY-SECTION ANALYSIS

Sec. 2. (a) Amendments to the Fair Labor Standards Act—The legislation amends Section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. § 207(e)) by creating a new subsection, 7(e)(8), which will exclude from the definition of the regular rate of pay any income or value nonexempt employees derive from an employer stock option, stock appreciation right, or bona fide employee stock purchase program under certain circumstances. Specifically, the legislation adds the following provisions to the end of Section 7(e) of the Fair Labor Standards Act:

(8) The new exclusion provides that when an employer gives its employees an opportunity to participate in a stock option, stock appreciation right or a bona fide employee stock purchase program (as explained in the Explanation of the Bill and Sponsor's Views), any value or income received by the employee as a result of the grants or rights provided pursuant to the program that is not already excludable from the regular rate of pay under sections 7(e)(1–7) of the Act (29 U.S.C. § 207(e)), will be excluded from the regular rate of pay, provided the program meets the following criteria—

(8)(A) The employer must provide employees who are participating in the stock option, stock appreciation right or bona fide employee stock purchase program with information that explains the terms and conditions of the program. The information must be provided at the time when the employee begins participating in the program or at the time when the employer grants the employees stock options or stock appreciation rights.

(8)(B) As a general rule, the stock option or stock appreciation right program must include at least a 6 month vesting (holding) period. That means that employees will have to wait at least 6 months after they receive stock options or a stock appreciation rights before they are able to exercise the right for stock or cash. However, in the event that the employee dies, becomes disabled, or retires, or if there is a change in corporate ownership that impacts the employer's stock or in other circumstances set forth at a later date by the Secretary in regulations, the employer has the ability to allow its employees to exercise their stock options or stock appreciation rights sooner. The employer may offer stock options or stock appreciation rights to employees at no more than a 15 percent discount off the fair market value of the

stock or the stock equivalent determined at the time of the grant.

(8)(C) An employee's exercise of any grant or right must be voluntary. This means that the employees must be able to exercise their stock options, stock appreciation rights or options to purchase stock under a bona fide employee stock purchase program at any time permitted by the program or to decline to exercise their rights. This requirement does not preclude an employer from automatically exercising outstanding stock options or stock appreciation rights at the expiration date of the program.

(8)(D) If an employer's grants or rights under a stock option or stock appreciation right program are based on performance, the following criteria apply.

(1) If the grants or rights are given based on the achievement of previously established criteria, the criteria must be limited to the performance of any business unit consisting of 10 or more employees or of any sized facility and may be based upon that unit's or facility's hours of work, efficiency or productivity. An employer may impose certain eligibility criteria on all employees before they may participate in a grant or right based on these performance criteria, including length of service or minimum schedules of hours or days of work.

(2) The employer may give grants to individual employees based on the employee's past performance, so long as the determination remains in the sole discretion of the employer and not according to any prior contract requiring the employer to do so.

(b) Extra Compensation—The bill amends section 7(h) of the Fair Labor Standards Act (29 U.S.C. 207(h) to make clear that the amounts excluded under section 7(e) of the bill are not counted toward an employer's minimum wage requirement under section 6 of the Fair Labor Standards Act and that the amounts excluded under sections 7(e)(1)–(4) and new section 7(e)(8) are not counted toward overtime pay under section 7 of the Act.

(c) Effective Date—The amendments made by the bill take effect 90 days after the date of enactment.

(d) Liability of Employers—

(1) No employer shall be liable under the FLSA for failing to include any value or income derived from any stock option, stock appreciation right and employee stock purchase program in an non-exempt employee's regular rate of pay, so long as the employee received the grant or right at any time prior to the date this amendment takes effect.

(2) Where an employer's pre-existing stock option, stock appreciation right, or employee stock purchase program will require shareholder approval to make to the changes necessary to comply with this amendment, the employer shall have an additional year from the date this amendment takes effect to change its plan without fear of liability.

(3) Where an employer is providing stock options, stock appreciation rights, or an employee stock purchase program pursuant to a collective bargaining agreement that is in effect on the effective date of this amendment, the employer may continue to fulfill its obligations under that collective bargaining agreement without fear of liability.

(e) Regulations—the bill gives the Secretary of Labor authority to promulgate necessary regulations.

Submitted April 12, 2000 by the Sponsors of S. 2323.

MITCH MCCONNELL.
CHRISTOPHER J. DODD.
JAMES M. JEFFORDS.
MICHAEL B. ENZI.

FOOTNOTES

[1] David Lebow et al., Recent Trends in Compensation Practices, Board of Governors of the Federal Reserve System, Fin. and Econ. Discussion Series, No. 1999–32, July 1999.

[2] Anita U. Hattiangadi, Taking Stock: $470,000 at Risk for Hourly Workers, Employment Policy Foundation, Mar. 2, 2000, at 4, and Fig. 2.

[3] Any stock option program that meets the criteria under section 422 of the Internal Revenue Code (called an Incentive Stock Option) is considered a qualified option. 26 U.S.C. §422.

[4] 26 U.S.C. §423.

[5] 29 U.S.C. §§201, et seq.

[6] 29 U.S.C. §207(a)(1).

[7] 29 U.S.C. §207(e).

[8] 29 U.S.C. §207(e)(1).

[9] 29 U.S.C. §207(e)(3).

[10] Id.

[11] Id.

[12] 29 U.S.C. §207(e)(4).

[13] See e.g., Conference Report on H.R. 5856, H. Rept. No. 1453.

[14] U.S. Dept of Lab, Bureau of Lab. Statistics, Employer Costs For Employee Conpensation—March 1999, available at ftp://146.142.4.23/pub/news.release/ecec.txt.

[15] A wage-hour opinion letter responds to a request for the Department of Labor's view of how the law applies to a given set of facts. The letters are available to the public upon request or through commercial reporting services. Opinion letters have significant practical effects: ''[T]he Administrator's interpretation . . . has the characteristic not only of securing 'expected compliance' . . . but of possibly stimulating double damage suits by employees who need not fear that they would be at odds with the Government Officials involved.'' *National Automatic Laundry & Cleaning Council* v. *Shultz*, 143 U.S. App. D.C. 274 (D.C. Cir. 1971).

[16] Letter from Daniel F. Sweeney, Office of Enforcement Policy, Fair Labor Standards Team, Wage & Hour Division, Feb. 12, 1999.

[17] Hearing on the Treatment of Stock Options and Employee Investment Opportunities Under the Fair Labor Standards Act before the House Committee on Education and the Workforce, Subcommittee on Employment and Training, 106th Cong. 2d Sess. Mar. 2, 2000 (Statement of T. Michael Kerr, at 4–5).

[18] Id. at 5. The testimony also noted that the program's automatic exercise feature prevented the employees' participation from being voluntary, as required under the Division's rules for thrift savings programs.

[19] Letter from Daniel F. Sweeney, Office of Enforcement Policy, Fair Labor Standards Team, Wage & Hour Division, Feb. 12, 1999.

[20] Hearing on the Treatment of Stock Options and Employee Investment Opportunities Under the Fair Labor Standards Act before the House Committee on Education and the Workforce, Subcommittee on Employment and Training, 106th Cong. 2d Sess. Mar. 2, 2000 (Statement of J. Randall MacDonald, at 2).

[21] Id. (addendum to statement of Patricia Nazemetz, Letter from Gary J. Bonadonna, Director & International Vice President, UNITE, February 22, 2000).

[22] Id. (statement of T. Michael Kerr, at 7).

[23] 26 U.S.C. §423.

Mr. MCCONNELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Connecticut, Mr. DODD, is recognized.

Mr. DODD. Mr. President, I appreciate how the Chair pronounces that name so well. I am very grateful to the Chair.

I am deeply pleased to be joining my good friend and colleague from Kentucky in authoring this legislation, along with several of our other colleagues. Senator MCCONNELL mentioned several of them. But certainly Senator ENZI, Senator BENNETT, Senator ROBB, Senator MURRAY, Senator BINGAMAN, Senator REED, Senator KERREY, among others are also cosponsors of this bill.

I am also pleased to inform this body that the Clinton-Gore administration is a strong backer of the Worker Economic Opportunity Act, which is presently before us.

We have one of those unique opportunities that is not always available to us in this Congress of the United States; that is, we are actually going to do something this afternoon that couldn't have any rancor associated with it. It will make a difference in the lives, we think, of millions of people who would like to share in the remarkable prosperity we are enjoying.

We are backed by the administration. It is a bipartisan effort in this body. I am told that a similar version of this bill has been introduced in the other Chamber, the House of Representatives.

This is actually something we may accomplish, and we are not packing the galleries. It is not going to be a headline story tomorrow, but it will make a difference in people's lives.

We are in a period of sustained economic growth, almost unprecedented, if not unprecedented, in the 210-year history of our Nation. The unemployment rate today at 4.1 percent is the lowest it has been in 30 years. More than 21 million jobs have been created since 1993.

I see my colleague and good friend from Wyoming here. He is one of the cosponsors of this bill as well. I mentioned him earlier. We are pleased he is with us.

We are enjoying almost unprecedented prosperity in the country along with the remarkable results of low unemployment, the lowest in some three decades. More than 21 million new jobs have been created in the last 7 years in our Nation. Inflation is down, and real wages are rising and have grown in 5 consecutive years; again, almost an unprecedented record in our Nation's history.

For the first time in 50 years, the country posted three consecutive surpluses. Think of that. For the first time in decades, we are watching the deficit clock run in the opposite direction. Instead of how much debt we are accumulating every minute and every second, we are now reducing the national debt with the prospect of eliminating it by the year 2013.

What greater gift could we give to the next generation than to burn the national mortgage, if you will. The economy is roaring. It is producing a prosperity in the confidence which very few people could have imagined a few short years ago.

Factory workers, secretaries, and other nonexempt workers form the backbone of companies, large and small, that are also making a difference. These individuals have been driving our economy. It is the view of those who sponsor this bill since they are driving so much of this economy, they ought not to have to take a back seat to anyone in sharing in the prosperity this economy has produced.

In today's new economy, many companies look for creative ways to recruit, train, and reward employees. The Federal Reserve Board of Governors estimated approximately 17 percent of large firms in the United States introduced a stock option program and 37

percent have broadened eligibility for the stock option programs in the previous 2 years.

Ten years ago these options were a perk for the chief executive officer and other corporate executives in the corporation. Less than 1 million people received stock options in the early 1990s. Today, between 7 and 10 million people across this country are offered stock options. According to the National Center for Employee Ownership, more than 6 million workers receiving options are nonexecutives. In a 1997 survey, NECO reported that the average option grant value was $37,000 for professional employees, $41,000 for technical employees, and $12,500 for administrative employees.

This is very good for the long-term economic prospects in this country.

Clearly, the trend is that a broad cross section of companies offers stock option programs. In these changing times, I am concerned, as is my colleague from Kentucky and others, about laws working for businesses and employees. We need to work with them to find new ways to reward working people. As the economy changes, it is only fitting we update our laws, as well. That is why I join with my colleagues, and why others have joined, why the administration has joined, to change the 1938 Fair Labor Standards Act.

The Fair Labor Standards Act of 1938 is the benchmark of worker protection laws. I want to make very clear that the bill that is before the Senate today, S. 2323, does absolutely nothing to undermine the foundation of that critical and important piece of legislation.

My colleagues in the administration determined that the 1938 law needed to be amended in order to incorporate the emergence of stock option programs being offered to hourly employees. Our bill amends the Fair Labor Standards Act to clarify that the gains from stock options do not need to be included in the calculation of overtime pay. That is what the 1938 law said. That is where a lot of the confusion arose.

Our legislation strikes a balance between protecting employee rights and offering flexibility to employers. This bill excludes from the regular rate stock options, stock appreciation rights or bona fide stock purchase programs that meet specific vesting, disclosure and determination requirements. A safe harbor is in effect to protect those companies that already had established stock option programs for nonexempt employees, including those programs provided under a collective bargaining agreement or requiring shareholder approval.

I would like to commend the staff for their hard work on this bill—Sheila Duffy of my staff, Denise Grant with Senator MCCONNELL, and Leslie Silverman and Elizabeth Smith with the HELP Committee.

This proposal has broad bipartisan, bicameral support between the executive and legislative branches.

I ask unanimous consent two letters, one from the Union of the Needletrades, industrial and textile employees, and one from the ERISA Industry Committee, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNION OF NEEDLETRADES, INDUSTRIAL AND TEXTILE EMPLOYEES, ROCHESTER REGIONAL JOINT BOARD,

*Rochester, NYC, February 22, 2000.*

TO WHOM IT MAY CONCERN: I am writing on behalf of UNITE and its approximately 5,300 United States bargaining unit employees covered by a contract with Xerox Corporation. It is our understanding that Congress is currently considering legislation to clarify the Fair Labor Standards Act (FLSA) treatment of stock options and other forms of stock grants in computing overtime for nonexempt workers Xerox' UNITE chapter would strongly urge Congress to pass legislation exempting stock options and other forms of stock grants from the definition of the regular rate for the purpose of calculating overtime.

It is only recently that Xerox has made bargaining unit employees eligible to receive both stock options and stock grants. Without a clarification to the FLSA, we are afraid Xerox may not offer stock options or other forms of stock grants to bargaining unit employees in the future. In addition, without such a change in the law if options are granted there could be tremendous differentials in the amount of overtime each individual employee received based on what he or she decides to exercise an option or sell stock. However, our position that stock options should be exempt from the regular rate for purposes of overtime in no way diminishes our position that bargaining unit employees must have the right to receive overtime pay for actual hours.

As we begin the 21st century, UNITE hopes more companies will begin to provide all their employees with stock options and other forms of stock. It is a great way to assure that when the company does well the employees share the reward through employee ownership. Thank you for your consideration of this matter.

Sincerely,

GARY J. BONADONNA,
*Director,*
*International Vice President.*

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THE ERISA INDUSTRY COMMITTEE,
*Washington, DC April 10, 2000.*

DEAR SENATOR: The ERISA Industry Committee (ERIC) strongly urges you to support S. 2323, the "Worker Economic Opportunity Act." S. 2323 is expected to come before the Senate for a vote during the week of April 10. Timely enactment of this legislation is critical to the continued viability of broad-based stock options and other similar programs that provide employees with equity ownership in the companies for which they work.

Introduced March 29 by Senator Mitch McConnell, the "Worker Economic Opportunity Act" enjoys strong bipartisan and bicameral support. The bill is the result of a cooperative effort between congressional leaders, the Department of Labor, and the business community.

Stock options increasingly are available to a broad range of employees, not just executives. A recent survey by William M. Mercer, Inc. reports a better than twofold increase since 1993 in the percentage of major industrial and service corporations that have a broad-based stock option plan.

In spite of the growing enthusiasm for employee equity ownership among employers and employees, an advisory letter interpreting current law issued by the Department of Labor's Wage and Hour Division has effectively stopped this movement in its tracks.

According to the Department's interpretation of the Fair Labor Standards Act (FLSA) of 1938, any gains from the exercise of stock options recognized by rank and file workers must be included in their "regular rate of pay" for purposes of computing overtime wages. Thus, in order to comply with the Wage and Hour Division's interpretation of the FLSA, employers would be required to track stock options granted to rank and file employees and recalculate their overtime payments once the options have been exercised.

No rational employer will subject itself to this impracticable burden. As a result, rank and file workers will be denied the valued opportunity to become a stakeholder in their employer's future.

S. 2323 is narrowly tailored to directly address the issues raised by the Wage and Hour Division's advisory letter without compromising any long-standing worker protections under FLSA. Most important, this legislation will benefit millions of working Americans by facilitating the continued expansion of equity-based compensation programs. It should be enacted without delay.

Thank you for considering our views. Please feel free to call on us if you have any questions or need additional information.

Very truly yours,

MARK J. UGORETZ,
*President.*

Mr. DODD. Mr. President, this bill is about fundamental fairness. I urge our colleagues to support this Worker Economic Opportunity Act to give working Americans a chance to share in our Nation's prosperity.

I ask further unanimous consent that during the remainder of this debate and the remainder of the day the bill be left open for additional cosponsorships. We have 20 or 30, but I suspect there may be others who would like their names associated with this bill. I ask unanimous consent cosponsorship of the bill be left open for the remainder of today's legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I commend the Senator from Connecticut and the Senator from Kentucky for their work on the bill being presented today. We are here today because we believe that all workers should have the opportunity to share in the success of their companies and it is incredibly important we do all we can to make sure that this legislation gets passed with the vote it deserves.

More and more employers are providing equity ownership opportunities to all of their employees and we are here today because we want to foster this trend which is good for our workers and for our nation's economic growth. The Worker Economic Opportunity Act will encourage this trend by changing the Fair Labor Standards Act

to address the needs of the 21st century.

Over the last ten years, we have witnessed tremendous change in the structure of our Nation's economy in large part due to the birth of the internet and e-commerce. The vitality of our economy is a tribute to the creative and entrepreneurial genius of thousands of individual business people and the indispensable contribution of the American workforce.

As legislators during this exciting time, we are challenged to maintain an environment that will foster the continued growth of our economy. We must work to ensure that our laws are in sync with the changing environment. However, many of the laws and policies governing our workplace have fallen out of sync with the information age and there has been particular resistance to changing our labor laws. As chairman of the Senate Committee with jurisdiction over workplace issues, I believe it is time to examine and modify these laws to meet the rapidly evolving needs of the American workforce.

The Fair Labor Standards Act (FLSA), for example, was enacted in the late 1930s, to establish basic standards for wages and overtime pay. While the principles behind the FLSA have not changed, its rigid provisions make it difficult for employers to accommodate the needs of today's workforce. In early January, we discovered the problem that we are addressing here today. It is extremely important. We learned that the sixty-year old law actually operates to deter employers from offering equity participation programs, such as stock options, to hourly employees.

These programs are most prevalent in the high tech industry, yet increasingly employers across the whole spectrum of American industry have begun to offer them. And, while these programs used to be reserved for executives, recent data shows that they are making their way down the corporate ladder. A recent Federal Reserve Board of Governors study found that 17% of firms have introduced stock options programs within the last two years and 37% have broadened eligibility for their stock option programs in the last two years.

Broad-based equity programs prove valuable to both employers and employees. For employers, these programs have become a key tool for employee recruitment, motivation and retention. Employees seek out companies offering these programs because they enable workers to become owners and reap the benefits of their company's growth.

When I first heard about the FLSA's application to stock options, I became very concerned about its impact on our workforce. I was pleased to discover that Senators MCCONNELL, DODD, and ENZI shared similar concerns and that the Department of Labor also recognized that we had a problem on our hands that would require a legislative solution. Together we crafted the legislation we are debating here today.

We have also worked together on a Joint Statement of Legislative Intent on S. 2323 which is intended to reflect the discussions the sponsors had with the Department of Labor during the drafting of the legislation, and the sponsors' intent and understanding of this legislation.

I urge all my colleagues to join me in supporting this important legislation. It is a symbolic first step in the process of aligning our labor laws with the new economy.

I commend the Senator from Wyoming who is one of the initial people who understood the importance of this issue and who came forward to help other Members understand the dangers of the present situation and to bring about the bill we have before the Senate. I am happy to yield the floor to my wonderful Senator from Wyoming.

The PRESIDING OFFICER (Mr. GREGG). The distinguished Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I commend the chairman of the Health, Education, Labor, and Pensions Committee, the jurisdictional committee, for this very important piece of legislation. I appreciate his allowing me to be the subcommittee chairman for the labor portion of that committee, which is referred to as the Employment, Safety and Training Subcommittee. We get to work on these kinds of issues on a regular basis. In the past, it has been known as one of the more contentious committees. But I recommend people take a look and note it is one of the more reasonable committees now, where we are reaching bipartisan solutions to problems for people in the workplace. That has always been our intent. We are actually having some confidence in each other now and are able to achieve those sorts of things.

I am pleased to be able to rise today to speak in favor of S. 2323, the Worker Economic Opportunity Act. The large number of bipartisan cosponsors on this bill says a great deal for both its importance and its balanced, fair nature. I commend the hard work of my colleagues, Senator JEFFORDS, Senator MCCONNELL, and Senator DODD, both in crafting a solution on the issue and in garnering the bipartisan support for the bill.

Elizabeth Smith, the legal counsel for the Employment, Safety and Training Subcommittee, has been one of the coordinators of the bill and has helped us to bring it all together. That is not only coordination between the House and Senate, between Republicans and Democrats, but it is also with the administration. A few days ago we had an opportunity to gather and talk about this bill and Secretary Herman was there, and she has played a role in getting this done.

The problem was brought to us from where it should come, and that is the workers. Workers were being told that because of the labor laws, their employers may have to stop giving them stock options.

That is an important factor because stock options are seen as a way for people throughout this country, workers throughout this country, to own a share of the company. The better the company does, the better they do. It is a way that from their job, and the risk they take having that job, employees get to benefit from the productivity and returns they put into the business.

And, boy, some of these businesses are really doing well; millionaires are being created overnight—and we want hourly workers to be able to take advantage of those stock options.

A little flaw, because of the amount of time that has gone by since fair labor standards passed, said you will have to do some calculating so the value of that stock option shows up as a direct payment.

Nobody really knows what the value of those stock options are, particularly at the time they receive them. They do know sometime down the road, when they take advantage of them, and probably even further down the road when they actually get to sell them, but there is a huge change, hopefully, in the value of that stock between the time it is awarded to them and the time there is some value to it. So how do you calculate that back in years, to the time they received it, to calculate it into overtime? The difficulty of calculating it led the companies to say: We can't figure out a formula for doing it. The Department has a formula for doing it, but we can't possibly process that through so we can avoid court action. So what we are going to do is we are going to end stock options. That is when the workers said to Congress: Solve this problem for us.

That is what brings everybody together for a solution, the people at the far end asking that they be allowed to continue participating in the prosperity of this country. That is what has happened in this instance. We are here today because the workplace has changed for the better, but the labor statutes have not. Many employers now give stock options, not only to the executives and the managers, they give it to secretaries, factory workers, janitors, mailroom clerks—everybody. Those are the hourly employees who provide the critical support on which a company's success is built.

I am proud of those employers who give stock options to those employees. They recognize the value of giving workers a stake in the company's business. They are leading the charge to move workplaces into a new, modern era of better employer-employee relations. In fact, the line is dimming on who is the employer and who is the employee.

Unfortunately, the decades-old Fair Labor Standards Act has not kept pace. This statute, drafted during a very different time in the history of the American workplace, threatened to prevent employers from giving hourly employees stock options. S. 2323 removes this threat and ensures that

companies can continue to give stock options to hourly employees so they can share in the success of their employer and this country's economic growth.

This legislation takes an important step toward bringing an outdated labor statute up to date with the modern workplace. I am very concerned there are many other examples of problems such as the one we are solving today, examples of other obsolete restrictions in the 30- to 60-year-old labor statutes that are stifling the development of the new creative ways to benefit employees, such as the stock options program and telecommuting arrangements. We should be encouraging these advances in employer-employee relations, not stifling them. By passing this Worker Economic Opportunity Act we can provide encouragement. I hope we can continue to look for ways to solve similar problems.

I am particularly pleased the Department of Labor has worked with us in this bipartisan group. As chairman of the Employment, Safety and Training Subcommittee, I firmly believe cooperation between lawmakers and agency is the best way to develop practical solutions that benefit both the employees and the businesses.

I want to mention we have been doing that for about 2 years now. We passed the first changes in OSHA in 27 years, a year and a half ago; little incremental changes that will make a difference to the workers, that will make the workplace safer. That is what we are trying to do.

Recently we worked together on home inspections. OSHA, through a letter, had suggested they were going to go into the homes and check and see how telecommuters were operating. Home is the least safe place there is. It worried a lot of companies about how they were going to do the inspections without imposing on the privacy of their employees. Employees were worried about companies coming into their homes. The Department and OSHA and Congress saw the error of that. The Department withdrew the letter. Both OSHA and congress agreed that OSHA should not be a threat to people working in their home offices. People who work in their homes really enjoy doing that. There are a lot of benefits to them, many of which people who work in the District would understand because of the parking and the traffic problems. I was very pleased that the agency and congress agreed on this.

Last week we had agreement on a funding proposal, a sense-of-the-Senate proposal that would have been on the budget agreement except for a parliamentary move that was done at the last moment. But there was agreement on both sides that there needs to be not only enforcement of OSHA—which does get attention—but justification by OSHA of how it is reducing workplace illnesses and injuries and a discussion of the value of compliance assistance activities, which are extremely important.

There are 12,000 pages of OSHA regulations. It is difficult for a small businessman to make it through that many pages of that kind of rhetoric. So we have been trying to make it more incentive-based, so the agency would participate more in telling them what they need to do instead of beating them over the head for what they did not do. We think, with a more cooperative program, there will be more safety in the workplace; that employers will not live in fear of OSHA, but rather in anticipation of help from OSHA and an understanding of the way they can keep their employees safe.

Those are a few of the things we are working together on to have a better workplace. This legislation is a key piece and a key beginning to a number of changes we can make to affect the workers of this country. I look forward to working together on similar measures in the future as we move toward the shared goal of better matching our Federal laws to the needs of the modern workplace.

I yield the floor.

Mr. JEFFORDS. Mr. President, I commend the Senator from Wyoming for his work not only on this bill but on the other legislation he discussed. I also commend him for his help in the review of existing labor laws. The Senator understands the import of bringing our labor laws in line with the needs into the 21st Century. I depend upon him, and he produces.

Mr. ABRAHAM. Mr. President, I rise today to express my support for the Worker Economic Opportunity Act. This bipartisan legislation, also supported by the Department of Labor, will encourage employers to provide stock options to all employees, not just executives, ensuring that all of our workers will continue to have the opportunity for an ownership stake in their company.

In recent years, there have been revolutionary changes in the workplace, creating new opportunities for our working families—opportunities, which for a long time, frequently existed only for a select privileged few. One of the most positive developments has been the significant increase in the availability of stock option plans for workers, specifically hourly workers.

The decades-old employment laws do not accommodate newer workplace innovations and their application would unfairly punish hourly workers by making their stock-option programs disproportionately expensive and complex for employers. Subsequently, recent Department of Labor legal interpretations and policies have threatened the availability of stock option plans for hourly employees.

Mr. President, it is imperative that Congress send a clear message that the positive developments taking hold around the country should be encouraged, not thwarted.

The Worker Economic Opportunity Act would send just a message, ensuring that all employees will continue to have the opportunity to share in the economic growth and success of their company formerly enjoyed only by corporate executives. Moreover, companies, especially smaller companies with high capital costs in development, will be able to maintain the capital resources necessary to compete in the rapid evolving global economy and, at the same time, reward and retain highly qualified and valued employees.

Finally, Mr. President, I would like to take a moment to thank Senator MCCONNELL for his work and dedication toward this legislation and the Department of Labor for recognizing the need to accommodate today's employee and workplace innovations.

I yield the floor.

Ms. COLLINS. Mr. President, I rise today to express my strong support for S. 2323, the Worker Economic Opportunity Act. I am pleased to be a cosponsor of this legislation, which has broad bipartisan support in both the Senate and the House of Representatives.

In recent years, we have seen substantial growth in the use of employee equity programs such as stock options, stock appreciation rights, and employee stock purchase plans. This growth has not only been in the number of companies which offer such plans, but also in the employees to whom such plans are available. While long used as a form of incentive for corporate executives, equity programs are now available to more employees than ever. In fact, a 1998 survey by Hewitt Associates found that in excess of two-thirds of large U.S. companies offered stock options to non-executive employees, and more than a quarter of these companies make such plans available to their entire workforce.

Unfortunately, the Fair Labor Standards Act, which was enacted in 1938, does not recognize the importance of stock options as an employee benefit. Thus, when asked how to deal with stock options when calculating overtime pay for hourly-wage employees, the Department of Labor ruled that the options would have to be included in the calculations.

The end result of this decision left employers with two options: One, go through the burdensome task of recalculating an employee's regular pay rate, retroactively, based on the change in the value of the stock from the time the option was granted until it was exercised; or, two, do not offer any form of equity program to any employee who is not exempt from the Fair Labor Standards Act.

Since complying with the Department of Labor's onerous ruling would not likely be worth the benefit of offering an equity plan, the vast majority of companies would be left to face option two, thus eliminating the use of a benefit that is popular with both employers and employees.

Recognizing the need to remedy this matter, for the good of companies and workers alike, a bipartisan group of

legislators worked to craft the bill we have before us today, the Worker Economic Opportunity Act. This legislation would exempt employee equity programs from the overtime requirements of the Fair Labor Standards Act, just as profit sharing and holiday bonus plans are exempted. In addition, the bill protects employers who offered employee equity programs prior to the date this legislation is enacted.

This legislation will allow employers to offer the kind of benefits which will allow them to attract a quality workforce, while providing employees with a benefit they truly want. It is all too rare for Congress to come up with a win-win solution to a problem, but in this case we certainly have.

Mr. President, I urge my colleagues to support this important legislation.

Mr. KENNEDY. Mr. President, since its enactment in 1938, the Fair Labor Standards Act has played a fundamental role in ensuring a fairer standard of living for all American workers. The act created basic rights for workers by establishing a federal minimum wage, a 40 hour work week and overtime pay for additional hours. It also protects children from abusive working conditions and helps ensure that women and men receive equal pay. Throughout its existence, the act has been indispensable in improving the standard of living for vast numbers of Americans.

The Department of Labor has effectively carried out its responsibility to interpret the law with this purpose in mind. Given the high value of the act in protecting workers' rights to a fair workplace, Congress must remain vigilant to ensure that any changes in this important law do not undermine the wage and hour protections guaranteed to workers under the act.

I support the current bill because it helps ensure that employers cannot misuse the act as an excuse to exclude rank and file workers from the stock option plans, stock appreciation rights, and stock purchase plans they provide to higher paid employees.

I commend Senator DODD, Senator JEFFORDS, Senator ENZI, and Senator MCCONNELL for developing this narrow, but important, clarification of the act. It is a needed modernization of the law, and it arose from unique circumstances. I am confident that the Secretary of Labor will promulgate regulations interpreting this bill in a way that protects the fundamental right of workers to receive overtime pay and not be forced to work overtime to participate in stock plans. It is of the utmost importance that any change in the act serves to strengthen the protections for workers, not weaken them.

Ms. SNOWE. Mr. President, I rise today to express my support for the Worker Economic Employment Opportunity Act. Mr. President, every time we turn around it seems that we hear about how strong our nation's economy is right now—and how America's workers are daily facing new-found employment opportunities. We are in a period of almost unprecedented prosperity and sustained economic growth. And the bill we are voting on today is a direct consequence of that growth.

It wasn't long ago that benefits such as stock options were available only to the upper levels of management. Companies are now offering stock options as a way not only to attract, but to retain quality employees at all levels. This is a way of providing fairness to our nations workers—the ones who manage the daily ins-and-outs of the business, the ones who have quite literally built today's economy.

S. 2323 will clarify that providing stock options will not be counted toward overtime pay for hourly employees. The vitality of our economy is a tribute to the hard work and creativity of these workers. Accordingly, it is unacceptable that the Fair Labor Standards Act would be interpreted in a manner that would effectively preclude the offering of this valuable benefit to hourly employees who form the backbone of American business.

The Fair Labor Standards Act already exempts some employee benefits such as discretionary bonuses, health insurance, and retirement savings plans from overtime calculations. We do this to encourage employers to provide these critically needed benefits and incentives for their employees—stock options should be no different.

We should not hinder the ability of our nation's workers to participate in the economic success of the companies they are helping to building. If employers choose to offer profit-sharing options, they should not be penalized when calculating over-time wages.

Mr. President, I support this critical clarification of the Fair Labor Standards Act and I urge my colleagues to vote for the bill. Thank you, Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, I rise today to support Senator MCCONNELL's stock options legislation, S. 2323, and commend him for his hard work on this issue. This legislation allows companies who currently offer non-salaried employees a stock options program to continue to incentivize their work force without the threat of sanctions of the U.S. Department of Labor.

This is an easy one to support. The United States is unique in the world with regard to how our stock options and the wealth generated in our companies are shared with those who significantly participate in their creation. As in most of the rest of the world, it used to be that only our top executives received stock options from their companies. Today, many high tech companies offer stock options to all of their employees, from the clerk to the CEO. Particularly with regard to an individual's retirement needs, stock options are a tremendous financial opportunity for all workers and their families. We must do everything in our power to preserve these positive wealth- and risk-sharing developments in our economy.

Employees at every level should be allowed to reap the rewards of the success of their company. All throughout the United States, it has become common place for employees to quit their job and go to work for progressive companies who allow them to share in the wealth that their corporations generate. I hear repeatedly from industrial companies whose compensation structure is often very different, that they are losing their most talented and valuable employees to these new, often high-tech, corporations. And Mr. President, that kind of competition for employees benefits all Americans and it's a positive development.

The Department of Labor's ill-considered advisory opinion, threatened this development, and would have resulted in the cessation of often generous stock option plans for non-managerial and non-professional employees in many of America's most progressive corporations. It is critical that we recognize the importance of these wealth- and risk-sharing developments to the health of the American economy and carefully weigh each new regulation, interpretation, and law before we rashly risk the financial health and well-being of the hard-working families who have everything to do with the level of productivity our economy enjoys.

Mr. LEVIN. Mr. President, I will vote in favor of the Worker Economic Opportunity Act, S. 2323. Stock options have traditionally been distributed only to highly salaried executives, used as an incentive to promote hard work on behalf of the company. As a company's bottom line improves due in part to the executive's efforts, the value of the company's stock increases, eventually rewarding the executive when he or she ultimately exercises the option and later sells the stock. I have long maintained that stock options ought be provided to all types of employee—whether hourly or salaried, management or clerica—and not just the top brass. That is why I introduced the Ending the Double Standards for Stock Options Act last Congress, which would have encouraged corporations to adopt plans in which a minimum of 50% of all options would go to non-management employees. After all, a company's success depends on the efforts of more than just its executives.

I am hopeful that the Worker Economic Opportunity Act will encourage the growth of broad-based employee stock option plans in corporate America. The Act excludes stock options from overtime pay calculations for hourly employees. Current law also excludes benefits like discretionary bonuses, employer-provided health insurance, and retirement benefits from overtime pay rates. But current law doesn't address stock options. Last year, the Department of Labor indicated that, without action by Congress, companies would likely have to include the value of stock options when figuring an hourly employee's overtime

pay rate. Corporate America has argued that the administrative and financial burdens associated with such inclusion, given a huge number of different employees having different amounts of options with different exercise dates and strike prices, outweigh the benefits of having a broad-based stock option plan.

This legislation is not inconsistent with my proposal to require the reporting of stock options as an expense on a company's financial statements, a key part of the Ending the Double Standards for Stock Options Act. Therefore, I support the Worker Economic Opportunity Act to remove a potential barrier to workers' participation in the prosperous American economy they helped create.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that for the next 5 minutes the time be held open, and then at 2:05 p.m. I will yield back all the time on the measure, and I ask unanimous consent that there be a period for morning business from 2:05 p.m. until 2:30 p.m., with the time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, what is the order of business?

The PRESIDING OFFICER. Before the Senate is S. 2323.

The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the passage of the bill.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH) and the Senator from Maine (Ms. SNOWE) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—95

| | | |
|---|---|---|
| Abraham | Edwards | Lincoln |
| Akaka | Enzi | Lott |
| Allard | Feingold | Lugar |
| Ashcroft | Feinstein | Mack |
| Baucus | Fitzgerald | McCain |
| Bayh | Frist | McConnell |
| Bennett | Gorton | Mikulski |
| Biden | Graham | Murkowski |
| Bingaman | Gramm | Murray |
| Bond | Grams | Nickles |
| Boxer | Grassley | Reed |
| Breaux | Gregg | Reid |
| Brownback | Hagel | Robb |
| Bryan | Harkin | Roberts |
| Bunning | Hatch | Santorum |
| Burns | Helms | Sarbanes |
| Byrd | Hollings | Schumer |
| Campbell | Hutchinson | Sessions |
| Chafee, L. | Hutchison | Shelby |
| Cleland | Inhofe | Smith (NH) |
| Cochran | Inouye | Smith (OR) |
| Collins | Jeffords | Specter |
| Conrad | Johnson | Stevens |
| Coverdell | Kennedy | Thomas |
| Craig | Kerrey | Thompson |
| Crapo | Kohl | Thurmond |
| Daschle | Kyl | Torricelli |
| DeWine | Landrieu | Voinovich |
| Dodd | Lautenberg | Warner |
| Domenici | Leahy | Wellstone |
| Dorgan | Levin | Wyden |
| Durbin | Lieberman | |

NOT VOTING—5

| | | |
|---|---|---|
| Kerry | Rockefeller | Snowe |
| Moynihan | Roth | |

The bill (S. 2323) was passed, as follows:

S. 2323

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Worker Economic Opportunity Act''.

**SEC. 2. AMENDMENTS TO THE FAIR LABOR STANDARDS ACT OF 1938.**

(a) EXCLUSION FROM REGULAR RATE.—Section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)) is amended—

(1) in paragraph (6), by striking ''or'' at the end;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) any value or income derived from employer-provided grants or rights provided pursuant to a stock option, stock appreciation right, or bona fide employee stock purchase program which is not otherwise excludable under any of paragraphs (1) through (7) if—

''(A) grants are made pursuant to a program, the terms and conditions of which are communicated to participating employees either at the beginning of the employee's participation in the program or at the time of the grant;

''(B) in the case of stock options and stock appreciation rights, the grant or right cannot be exercisable for a period of at least 6 months after the time of grant (except that grants or rights may become exercisable because of an employee's death, disability, retirement, or a change in corporate ownership, or other circumstances permitted by regulation), and the exercise price is at least 85 percent of the fair market value of the stock at the time of grant;

''(C) exercise of any grant or right is voluntary; and

''(D) any determinations regarding the award of, and the amount of, employer-provided grants or rights that are based on performance are—

''(i) made based upon meeting previously established performance criteria (which may include hours of work, efficiency, or productivity) of any business unit consisting of at least 10 employees or of a facility, except that, any determinations may be based on length of service or minimum schedule of hours or days of work; or

''(ii) made based upon the past performance (which may include any criteria) of one or more employees in a given period so long as the determination is in the sole discretion of the employer and not pursuant to any prior contract.''.

(b) EXTRA COMPENSATION.—Section 7(h) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(h)) is amended—

(1) by striking ''Extra'' and inserting the following:

''(2) Extra''; and

(2) by inserting after the subsection designation the following:

''(1) Except as provided in paragraph (2), sums excluded from the regular rate pursuant to subsection (e) shall not be creditable toward wages required under section 6 or overtime compensation required under this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this Act.

(d) LIABILITY OF EMPLOYERS.—No employer shall be liable under the Fair Labor Standards Act of 1938 for any failure to include in an employee's regular rate (as defined for purposes of such Act) any income or value derived from employer-provided grants or rights obtained pursuant to any stock option, stock appreciation right, or employee stock purchase program if—

(1) the grants or rights were obtained before the effective date described in subsection (c);

(2) the grants or rights were obtained within the 12-month period beginning on the effective date described in subsection (c), so long as such program was in existence on the date of enactment of this Act and will require shareholder approval to modify such program to comply with section 7(e)(8) of the Fair Labor Standards Act of 1938 (as added by the amendments made by subsection (a)); or

(3) such program is provided under a collective bargaining agreement that is in effect on the effective date described in subsection (c).

(e) REGULATIONS.—The Secretary of Labor may promulgate such regulations as may be necessary to carry out the amendments made by this Act.

Mr. LOTT. I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

—

## ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I had hoped we would be able to announce a unanimous consent agreement at this time as to how we will proceed on eliminating the marriage tax penalty and what amendments would be in order and how much time. I have now received a list of amendments from Senator DASCHLE, but we have had only a couple of minutes to review that. We need a little time. I understand several of the amendments actually have been filed. There may be one or two on which we don't actually have access to an amendment. For instance, Senator TORRICELLI may have an amendment

prepared and we would like to get a copy of the amendment. We would like to have a little time to review the list and the substance of these amendments. We have agreed we should go forward with general debate while we do that.

I ask consent the Senate resume the pending legislation for debate, equally divided, until the majority leader is recognized at 4:30 this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

—

## MARRIAGE TAX PENALTY RELIEF ACT OF 2000—Resumed

Pending:

Lott (for Roth) amendment No. 3090, in the nature of a substitute.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of New Hampshire, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from California.

Mrs. BOXER. Mr. President, I know the majority leader is looking over amendments that Members on this side of the aisle want the opportunity to offer to the bill on the marriage tax penalty. I certainly hope the majority leader will be able to accommodate us. After all, if we were using the regular rules of the Senate, we could offer any and all amendments; that is, the rules of the Senate provide Members can, in fact, offer amendments on bills that come before the Senate.

The Senator from Montana, who has done so much work on this marriage tax penalty issue, and I were talking about how much the procedure around here is like the House of Representatives with tremendously restricted opportunities for debate and restricted opportunities to offer amendments. We are working very hard, on our side of the aisle, to fight for the right merely to put matters before the Senate. We may not win every time, but the fact is we are here for a reason and that is to legislate; it is to bring these matters before the American people in this forum called the Senate.

The bill purports to take care of the marriage tax penalty, but I have big news for everyone: It does not take care of the marriage tax penalty. Why do I say this? I get this directly from Senator MOYNIHAN's work on this issue as the ranking member of the Finance Committee. We know there are 65 marriage tax penalties in the code for all taxpayers—65.

So if you really believe the marriage tax penalty is your biggest priority and that is all you want to do, that it is the most important thing as you look at the Tax Code—and, frankly, from my point of view, it is not the only thing I want to do and there are more important things we can do to help the middle class in this country—the most honest thing to do is repeal the penalty in these 65 occasions in which it appears in the Tax Code.

However, the GOP plan fully eliminates only 1 of these penalties, partially eliminates 2 others, and it leaves 62 marriage penalties in the code.

We have a situation where we are told we can do away with the marriage tax penalty, but when we look at the fine print, we are not doing away with the marriage tax penalty at all. We are only doing it in one place, completely, where it appears, and partially in another couple. And we are leaving 62 penalties in place.

So I do not really think this is a good way for us to proceed because it is so expensive and we have not taken care of the marriage tax penalty. It is another one of these risky tax schemes that is going to come back to haunt us because it is going to rob us of debt reduction.

When you add it to all the tax bills that have already passed the Senate with majority support from the Republicans, it is breaking the back of the non-Social Security surplus. We will have no surplus. Pretty soon, we are going to start eating into that surplus.

We are going to hear Senator BAUCUS talk about why he believes this plan is flawed. It actually hurts some people at the lower end of the scale. It does not do what it purports to do.

We are going to hear from Senator BAYH, who has another idea that is certainly more affordable and would allow us to do other things we need to do for our people, such as the prescription drug benefit.

We now know for sure that our people are suffering because they cannot afford prescription drugs. If we listen to Senator WYDEN, who has spoken on this eloquently, we know our senior citizens are not taking their prescription drugs. They are cutting their pills in half. They risk getting strokes. They risk getting heart attacks. They cannot afford the prescription drugs.

While we are talking about a marriage tax penalty—and a lot of relief goes to people who are earning a lot of money in this country—what about the prescription drug benefit? What about a tuition tax break for parents who are struggling to send their kids to college and college tuition goes up each and every year?

We cannot do these things in a vacuum. We have to look at the entire picture. We have to ask ourselves: Do we want to give tax breaks or do we want all the money to go to debt reduction? I myself would like to give targeted tax breaks that we can afford to the middle class, who needs them, and use the rest of the money for debt reduction and for investments in our people, in our children.

In closing, there is something we can really do for married people here, those at the lowest incomes who are working at the minimum wage, more than 60 percent of whom are women. Raising the minimum wage would go a long way to doing something good for people who are married and in the low brackets. A tuition tax break for people who send their kids to college would go a long way to helping married people and their families. A prescription drug benefit would help those families who are seeing their moms and dads struggling along, not being able to afford prescription drugs.

So the question we face, just to sum it up as we look at this Republican plan, is this: Why would we do something that says it is relieving the marriage tax penalty when it leaves 62 marriage tax penalties in place? Why would we do that? It is not real. We are telling people we are doing something we are not doing. We are backloading it. We are breaking the Treasury. We are eating into the non-Social Security surplus. Why would we do that?

Why not look at a more modest plan? We have some ideas on that. We are going to hear about one of them today. Why don't we look at raising the minimum wage? Why don't we look at the prescription drug benefit or the tuition tax break for our families who are struggling to send their kids to college? Why don't we look at this economic recovery and together, both sides of the aisle, say we do not want to derail it by doing these tax breaks, one after the other after the other after the other. They are adding up to hundreds of billions of dollars.

If our President were not so strong in saying let's keep this country on a fiscally sound basis, we would be in a lot of trouble, if those bills had been signed.

I asked of the Senator from Montana yesterday—I was talking to his staff—how many tax bills have already gone through here with the votes of the other side of the aisle. I think his staff told me it was about $500 billion at this point, $500 billion of tax breaks—by the way, most of them to people who do not want them, who do not need them, who are asking us to keep the economy strong, reduce the debt, and do targeted tax breaks for the people who really need them.

I hope the majority leader will accept these amendments we have come up with, allow us to debate as Senators, not turn us into the House of Representatives which gives its Members very few rights to offer amendments. I hope we will reject this Republican plan because it does not do what it says it does. It is fiscally irresponsible, and it stops us from doing the good things we need to do for our families.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield 7 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I support legislation which would provide

tax relief to the working families who are currently paying a marriage penalty. Such a penalty is unfair and should be eliminated. However, I do not support the proposal the Republicans have brought to the floor.

While its sponsors claim the purpose of the bill is to provide a marriage penalty relief, that is not its real purpose. In fact, only 42 percent of the tax benefits contained in the legislation go to couples currently subject to a marriage penalty. The majority of the tax benefits would actually go to couples who are already receiving a marriage bonus and to single taxpayers. As a result, the cost of the legislation is highly inflated. It would cost $248 billion over the next 10 years.

As with most Republican tax breaks, the overwhelming majority of the tax benefits would go to the wealthiest taxpayers. This bill is designed to give more than 78 percent of the total tax savings to the wealthiest 20 percent of the taxpayers. It is, in reality, the latest ploy in the Republican scheme to spend the entire surplus on tax cuts which would disproportionately benefit the richest taxpayers. That is not what the American people mean when they ask for relief from the marriage penalty. With this bill, the Republicans have deliberately distorted the legitimate concerns of married couples for tax fairness.

All married couples do not pay a marriage penalty. In fact, a larger percentage of couples receive a marriage bonus than pay a marriage penalty. The only couples who pay a penalty are those families in which both spouses work and have relatively equivalent incomes. They deserve relief from this inequity, and they deserve it now.

We can provide relief to the overwhelming majority of the couples simply and at a modest cost. That is what the Senate should do. Instead, the Republicans have insisted on greatly inflating the cost of the bill by adding extraneous tax breaks primarily benefiting the wealthiest taxpayers.

A plan that would eliminate the marriage penalty for the overwhelming majority of married couples could easily be designed and cost less than $100 billion over 10 years. The House Democrats offered such a plan when they debated this issue in February. The amendment which Senator BAYH intends to offer to this bill would also accomplish that goal. If the real purpose of the legislation is to eliminate the marriage penalty for those working families who actually pay a penalty under current law, it can be accomplished at a reasonable cost.

The problem we have consistently faced is that our Republican colleagues insist on using marriage penalty relief as a subterfuge to enact large tax breaks unrelated to relieving the marriage penalty and heavily weighted to the wealthiest taxpayers. The House Republicans put forward a bill which would cost $182 billion over 10 years and give less than half the tax benefits to people who pay a marriage penalty. That was not enough for the Senate Republicans. They raised the cost to $248 billion over 10 years. A substantial majority, 58 percent of the tax breaks in the Senate bill, would go to taxpayers who do not pay a marriage penalty.

Nor is this the only tax bill the Republicans have brought to the floor this year. They attached tax cuts to the minimum wage bill in the House of close to $123 billion and tax cuts to the bankruptcy bill in the Senate of almost $100 billion. They have sought to pass tax cuts of $23 billion to subsidize private school tuition and reduce the inheritance tax paid by multimillionaires. Not including the cost of this bill, the Republicans in the House and Senate have already passed tax cuts that would consume $443 billion over the next 10 years. The result of this tax cut frenzy is to crowd out necessary spending on the priorities which the American people care most about—education, prescription drugs for senior citizens, health care for uninsured families, strengthening Medicare and Social Security for future generations.

Finally, I want to bring another matter to the attention of the Senate. It is another marriage penalty, and that is, there are 13 States—which represent 22 percent of the American people—that have laws saying when one gets married, they lose the coverage under Medicaid they might otherwise have if they were single. For example, in the State of Maine, one is eligible as a single person for Medicaid up to $14,000, but if it is a couple, each earning $7,000 so the family income is $14,000, neither of them gets Medicaid coverage. That is true in 13 States.

If we are going to take a look at the marriage penalty for the wealthier individuals in this country, what about the marriage penalty for some of the working poor who are trying to make ends meet? That is an issue I hope to have an opportunity to debate when we get into a discussion of the proposal put forward by the Democratic leader.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to speak for up to 15 minutes on an unrelated topic.

Mr. BAUCUS. Mr. President, we are now on the marriage penalty bill. I suggest to the Senator, since there are no other Members on the floor, he can take time off the majority side on the pending measure.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HUTCHINSON. Mr. President, since this is coming off our time on the marriage tax penalty bill, I commend Senator HUTCHISON and all those who have worked so diligently on both sides of the aisle and in the House of Representatives to provide relief on this onerous and perverse provision in our Tax Code that puts the institution of marriage in a disadvantageous position and costs American families thousands of dollars each year. It is something that should have been eliminated long ago.

I look forward to supporting the Marriage Penalty Relief Act. I hope there will be an overwhelming vote in the Senate for this bill.

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## MILITARY RECRUITER ACCESS ENHANCEMENT ACT OF 2000

Mr. HUTCHINSON. Mr. President, I rise today to speak in favor of S. 2397, the Military Recruiter Access Enhancement Act of 2000. This bill is designed to assist armed services recruiters in gaining access to secondary schools and school student directory information for military recruiting purposes.

The matter of recruiting and retaining military personnel of the highest quality and in the quantity needed to maintain the optimal personnel strength of our armed services has been a topic of great interest to myself and my colleagues on the Senate Armed Services Personnel Subcommittee.

I have heard detailed testimony in hearings this year from top Department of Defense manpower officials and actual military recruiters—those on the front lines doing the recruiting—regarding the challenges of contacting and informing young people today about the benefits of a career in the military. As I have contemplated the detailed testimony received on the subject, it is clear there are several factors combining to make the tough job of recruiting young people for military service even tougher.

We found the following: The combined effects of the strongest economy in 40 years, the lowest unemployment rate since the establishment of an all-volunteer force, and a declining propensity on the part of America's youth to serve in the military make the recruitment of persons for the Armed Forces unusually challenging in the economic climate in which we exist.

For the recruitment of high quality men and women, each of the Armed Forces face intense competition from the other branches of the Armed Forces. They face competition from the private sector, and they face competition from postsecondary educational institutions recruiting young people as well.

It is becoming increasingly difficult for the Armed Forces to meet their respective recruiting goals. Despite a variety of innovative approaches taken by recruiters and the extensive programs of benefits that are available for recruits, recruiters have to devote extraordinary time and effort to fill monthly requirements for immediate accessions.

Unfortunately—and this is, I think, dismaying and surprising to most Americans—a number of high schools, thousands of high schools, have denied recruiters for the Armed Forces access to the students or to the student directory information of those high schools.

In 1999, there were 4,515 instances of denial of access to the Army. There were an additional 4,364 instances in the case of the Navy, 4,884 instances in the case of the Marine Corps, and 5,465 instances of denial of access to Air Force recruiters. In total, there were over 600 high schools across this country that denied access to at least three branches of the services, the largest of those school districts is San Diego, CA.

As of the beginning of 2000, nearly one-fourth of all high schools nationwide did not release student directory information to Armed Forces recruiters.

In testimony presented to the Committee on Armed Services of the Senate, recruiters of the Armed Forces stated that the single biggest obstacle to carrying out their recruiting mission is the denial of access to directory information about students, for a directory listing of high school students is the recruiter's basic tool. When directory information is not provided by schools, recruiters must spend valuable time, otherwise available for pursuing recruiting contacts, to construct a list from school yearbooks and other sources. This dramatically reduces both the number of students each recruiter can reach and the time available communicating with the students that the recruiters can eventually locate.

The denial of direct access to students and denial of access to directory information unfairly hurts America's young people.

High schools that deny access to military recruiters prevent students from receiving all of the information on the educational and training incentives offered by the Armed Forces, thus impairing the career decisionmaking process of students by limiting the availability of complete information on what options they have before them.

The denial of access for Armed Forces recruiters to students or to directory information ultimately undermines our national defense by making it harder for our Armed Forces to recruit young Americans in the quantity and of the quality necessary for maintaining the readiness of the Armed Forces to provide national defense.

The bill I have introduced legislates a series of formal steps to be taken with secondary schools that deny access to students or student directory information to recruiters.

Step 1: The Department of Defense will be required to send a general officer or flag officer to visit the local education agency to arrange for recruiting access within 120 days following a report of access denial.

Should a school say, no, we are not going to let military recruiters access, the first step is, negotiations. They would try to work this out. You would have a flag officer, or a general officer, who would go to the school, visit with the superintendent, the principal, the counselors, and find out what the problem is.

Step 2: Should access still be denied, within 60 days of the visit in step 1, the Secretary of Defense must then notify the State's chief executive—presumably the Governor—of the denial and request his or her assistance. A copy of this request is also sent to the Secretary of Education.

Step 3: If access for recruiters is still not achieved a year after the Governor has been notified—a full 18 months since the initial discovery that they are denying access—and if it is found that the school in question denies access for two or more of the Armed Services, that school will be placed on a list maintained by the Department of Defense and will be denied Federal funds until such time as recruiter access is restored.

People may say that is having a heavy hand. May I say, there is no school in America that ought to ever lose Federal funding under this law because no school should ever have to deny access to military recruiters. There is an ample amount of time—a full 18 months—for negotiations, discussion, in bringing in the Governor of the State, to try the reconcile whatever problems there might be.

I think the importance of this bill cannot be overstated. We have an obligation to provide an environment for our recruiters that, at the very least, places them on a level playing field with the recruiters of colleges and universities and with representatives from private industry.

Today, the recruiting of high school students actually starts in junior high school for colleges, for universities, and even for private-sector jobs. To say a recruiter cannot have contact until that student is out of high school puts them at an incredible disadvantage.

While DOD has had the ability to withhold Federal funding from colleges and universities which denied access to military recruiters, there has not been any significant recourse available at the secondary school level.

In some cases, a few select administrators can make decisions about recruiter access based on their own personal bias or lack of familiarity with the positive aspects of military service. These ''gatekeepers'' effectively block information from students by denying access to recruiters. These nonaccess policies may actually exist when the community at large in the school's area is very much supportive of the Armed Forces and recruiting efforts.

We must work collectively as a nation to keep our military ''connected'' with the people they serve. The concept of an all-volunteer force will only continue to be successful when the compensatory benefit package we offer young people is competitive and the career information on current educational and financial incentives is readily available to potential recruits.

There are those who are understandably concerned about maintaining the privacy of personal contact information. It is ironic, however, that student directory information is often shared by high schools with cap and gown companies, college recruiters, and private industry representatives, but denied to Armed Forces recruiters. We must take active steps to eliminate that sort of bias, whether intended or not, and reestablish an equal footing for our Armed Forces recruiters with other groups seeking to contact students. We must remember that recruiters represent the primary tool of not only the Department of Defense but Congress, as well, in fulfilling our constitutional requirements to raise and maintain an army, the Armed Forces.

There is no doubt in my mind that the recruiting professionals in all branches of our Armed Forces are top-notch role models, fully capable of succeeding in their respective recruiting missions, but they need to have a supportive and conducive contact environment.

This bill will provide school officials of institutions currently restricting access to recruiters with additional incentive to improve or restore that access.

This bill will bring attention locally and nationally to the problems of access restriction to Armed Forces recruiters.

This bill sends a clear signal to DOD leaders and to the people of our country that we recognize the problem recruiters face in supporting the concept of our all-volunteer force.

This bill provides a reasonable and calculated approach to improving access with a phased escalation in the negative consequences for schools insisting upon perpetuating nonaccess policies. It is nonantagonistic, it is nonconfrontational, but it is firm.

This bill does not attempt to dictate local practices from Washington, as some may charge. This bill merely requires schools to provide—and I quote from the bill's language—

> . . . the same access to secondary school students, and to directory information concerning such students, as is provided generally to post-secondary educational institutions or to prospective employers of those students.

We are just simply saying: Make the playing field level. If you are going to deny access to Army recruiters, Air Force recruiters, Marine recruiters, Navy recruiters, then we expect the same denial would be applied across the board to private industry recruiters and to colleges and universities. If you are going to provide access to private industry and to colleges and universities, likewise, that access must be provided under this legislation to those seeking to recruit for our Armed Forces.

The size of our Armed Forces has decreased significantly over the past decade. The number of veterans is decreasing daily. Fewer and fewer young people today have a close relative or friend with military service experience. We have in the Congress a corporate responsibility to make an extra effort to

invite young men and women to bring their talent into the service of their country and to take advantage of the outstanding educational and training benefits currently available. Few occupations offer the patriotic satisfaction of military service.

A healthy all-volunteer force does not just happen. When I asked recruiters appearing before a recent Personnel Subcommittee hearing what Congress could do to help them bring the best and brightest into today's military, of course they responded that educational benefits would help, they responded that health care benefits would help, they responded that improving housing would help. But equally important was their request for help in convincing parents and educators that enlisting their children and students was ''not the last choice'' but a first choice, and to help them gain access to students on school grounds and access to student directory information.

In response to the DOD request for assistance, I would like to respond in two ways:

First, by inviting all of my colleagues in the Senate, regardless of where they hail from, to join with me in pledging to visit one or more high schools in their home States this year and to promote military service as an attractive career opportunity while addressing students and facility members. This is one positive step we can all take to demonstrate our support for a healthy Armed Forces recruiting process.

Secondly, I urge my colleagues to support this bill, the Military Recruiter Access Enhancement Act of 2000, in an enthusiastic and bipartisan fashion. We want and need the brightest and the best to serve in our Armed Forces. I cannot help but think of the many outstanding citizens in all walks of life, indeed, including many of my esteemed colleagues right here in the Senate, who began their adult lives with service to our Nation in one of the branches of the Armed Services. We owe it to the recruiters of our services to do all we can to help them succeed in their tireless efforts to bring in quality men and women for the defense of our country.

Mr. President, I thank you for your indulgence and thank the Senator from Texas for her willingness to yield to me this time and for her tireless efforts on behalf of tax relief for the families in this country.

I yield the floor.

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## MARRIAGE TAX PENALTY RELIEF ACT OF 2000—Continued

The PRESIDING OFFICER. Who yields time?

The Senator from Indiana.

Mr. BAYH. Mr. President, I rise to speak on behalf of the Targeted Marriage Penalty Relief Act of 2000. I do so because I believe it affords us the best opportunity to deal with this problem in a way that will relieve this penalty from the vast majority of Americans.

Approximately 80 percent of the Americans who currently pay the marriage tax penalty would have their penalty eliminated entirely under our approach.

Secondly, I favor this approach because it allows us to deal with this problem in the most affordable manner, also giving us the freedom to address other important issues that have faced our great country. I support the Targeted Marriage Penalty Relief Act of 2000 because it strikes the right balance between fiscal responsibility and a socially progressive policy, which I think is best for our country.

I support relief of the marriage tax penalty for several important reasons. First, as a matter of basic justice. It is not right that two individuals should pay more in taxes simply because they are married. When our Tax Code falls into ridicule, compliance drops and the Government, as a whole, falls into disrepute. We should not allow this to happen. We can take an important step to preventing this from happening by dealing with the marriage penalty problem.

Secondly, I support marriage tax penalty relief as a matter of social policy. Marriages and families are the basic building blocks on which our society is built. Too many marriages today end in disillusion. Too many families today are fractured because of the strains they face, often financial strains. If we can take action to strengthen families and marriages, to provide a sound and secure environment in which children can be raised, it is better for our country in a whole host of important ways.

I support the marriage tax relief provisions I speak to today as a matter of economic policy. During prosperous times when we enjoy surplus, it is only right that we share some of that hard-earned benefit with those who have generated it in the first place: the taxpayers of our country.

All of this is not to say we can afford just any approach to resolving the marriage penalty situation. We have to get it right. We have to do it in a way that is affordable and balanced with the other needs our country faces. This cannot be said of all the approaches currently before this body. Some of the approaches are poorly targeted, more than we can afford and, in fact, do not deserve the title of marriage tax penalty relief at all.

I admire the work done by the Democrats on the Senate Finance Committee; in particular, the leadership of the ranking member, Senator MOYNIHAN, and Senator BAUCUS. Their approach is truly targeted to ending the marriage tax penalty problem. It is intellectually elegant, and I appreciate the work they have done in this regard. We have several practical issues we are working through, but their approach truly deserves the title ''marriage tax penalty relief.''

The same cannot be said of the approach taken by the majority. Their approach claims to be a marriage tax penalty reduction bill but, as has been alluded to by several other speakers, more than half of the benefits go to those who do not have a marriage tax penalty at all. Many things can be said about this proposal. Calling it a marriage tax penalty bill is not one of them.

Secondly, it is too slow. It is phased in over a 7-year period. Why should we wait so long to give this important relief to the taxpayers of America? If it is truly a pressing problem, surely we can afford to act much sooner than that.

Third, it is regressive in nature. More than half of the benefits under the approach taken by the majority go to those earning more than $100,000 a year.

I have no trouble with the wealthy in our society. In fact, I wish we had more wealthy in the United States of America. But at a time when we have to make difficult decisions and allocate scarce resources among competing priorities, I think relief of the marriage tax penalty needs to be more squarely focused upon the middle class, an approach not taken by the majority.

Finally, and most significant of all, is the issue of affordability. The approach taken by the majority would use fully $248 billion over the next 10 years to solve this problem, severely limiting our ability to deal with other pressing matters that face our country.

If you care about a drug benefit for Medicare, not only is the majority position silent about your concerns, it in fact limits our ability to do something about your concerns. If you care about making college more affordable by including a college tax deduction or credit to lower the cost of college, not only does the majority position do nothing to address your concerns, in fact it makes addressing your concerns and reducing the burden of the college expense on working families more difficult to accomplish. If you care about caring for the elderly, a sick parent or grandparent, not only is the majority approach silent about your concerns, it in fact makes it more difficult to deal with this important and pressing matter. If you care about debt relief or about education reform, not only is the majority position silent about your concerns, it in fact makes it more difficult to consider.

Fortunately, there is another alternative, one that is targeted, one that is immediate, one that is progressive, and one that is affordable. The approach I speak to today, as the approach taken by the Democrats in the Senate Finance Committee, is a true marriage tax penalty relief bill. No one who does not currently pay a marriage tax penalty will be eligible for a tax cut under this provision. It helps those who have the problem get relief, which is the way it should be.

Secondly, the relief is immediate. In the first year of this approach, fully 51

percent of Americans who pay a marriage tax penalty will have their marriage tax penalty eliminated entirely. After 4 years, when this approach is fully implemented, more than 80 percent of the American people, everyone making under $120,000 a year, will have their marriage tax penalty fully eliminated—100-percent elimination of the marriage tax penalty for everyone making $120,000 a year in just 4 years, not the 7 proposed by the majority.

Third, this approach is progressive. Everyone making under $120,000 will have the marriage tax penalty eliminated, and the majority, more than half, of the benefits go to those making between $50- and $100,000 a year. Working families, the middle class, those who are struggling most can make ends meet.

Finally, on the issue of affordability, while the majority proposes $248 billion over 10 years to deal with this problem, our approach would take only $90 billion—more than 80 percent of the problem eliminated at only a fraction of the cost—thereby freeing up billions and billions of dollars to deal with other pressing matters that face our society.

Let me put this in perspective: the difference in cost of the majority's position versus our position is $158 billion over 10 years. The difference in cost would completely fund a Medicare drug benefit proposed by the President of the United States for every senior citizen across our country qualifying for Medicare, helping to lower the cost of prescription drugs. Even if you don't adopt the President's approach to a Medicare drug benefit and instead adopt the less costly provisions proposed by the majority—let's take the Republican drug benefit, costing around $70 billion over the next 10 years—you would still have the ability to fully fund that and, in addition, adopt a $10,000 tax deduction for people with children in college, allowing them to write off the first $10,000 of college tuition.

In addition, you would allow a $3,000 credit for senior citizens who are being cared for by their children or grandchildren, lowering the cost of long-term care for the elderly in our society. You would allow for the $30 billion of education reform proposed by Senator GRAHAM on the floor of the Senate just last year.

Let me briefly review the affordability provisions. On the one hand, you have a so-called marriage tax penalty relief bill that costs $248 billion over 10 years, the majority of which goes to people who, in fact, don't pay the marriage tax penalty, or you can eliminate 80 percent of the marriage tax penalty, eliminate it entirely for everyone making under $120,000 and, in addition to that, fully fund the Medicare drug benefit proposed by the majority, and fully fund the college tuition deduction proposed by Senator SCHUMER, and fully fund the long-term elderly care credit proposed by myself and others, and fully fund the money for education reform proposed by Senator GRAHAM.

The choice is clear: a marriage tax proposal on the one hand that goes to largely benefit those who don't pay the marriage tax penalty or a marriage penalty relief proposal that eliminates the vast majority of that problem and adds a Medicare drug proposal and makes college more affordable and provides for long-term care for the elderly and invests funds in the quality of education. I believe the choice is clear.

I thank my colleagues for their indulgence and, again, commend the Senate Finance Committee Democrats for their dedication to this issue and the hard work they have devoted to it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, this is a very important debate. I hope we are going to be able to move to pass this bill before people have to write their checks during the weekend deadline for income taxes this year.

Right now, there are negotiations underway between the Republicans and the Democrats about what kind of amendments should be offered. I very much hope that the Democrats will agree to offer some relevant amendments because I think there are surely legitimate disagreements about how we would give marriage tax penalty relief. But I also hope we will not have extraneous amendments offered, no matter how good the cause, which would take away from what President Clinton asked us to do, and that is to send him a marriage tax penalty bill that does not include extraneous legislation. That is what we are attempting to do.

So I hope we can move forward into the amendment phase and talk about our differences. I think the distinguished Senator from Indiana wants tax relief for hard-working married couples. I think we may have a few differences, but in the end I suspect that he and I will both vote for the bill that is passed out of this Senate; that is, if we can get to the vote. That is what I hope we can do.

I think we need to be very careful in the debate, though, about accuracy and what the different proposals are going to do. I heard a Senator earlier today in debate say that this bill on the floor will break the Treasury. I think the distinguished Senator from California, Mrs. BOXER, perhaps didn't look at the numbers and didn't match it to the budget resolution because, clearly, this not only doesn't break the Treasury, it doesn't even spend half of the allocation in the budget we passed last week for tax relief. In fact, it is $69 billion over 5 years, and the budget we passed last week is $150 billion over 5 years. So this is not even half.

We do hope to give tax relief to other people in our country. We want to eliminate the marriage tax penalty. We want to let seniors work if they are between 65 and 70 and not be penalized for it, and that bill has already been passed. We want small business tax cuts to make it easier for our small businesses to create the jobs that keep our economy thriving. We would like to give education tax cuts. Under the leadership of Senator COVERDELL, we passed education tax cuts that would help people give their children the education enhancements that would increase their education quality. All of these things fit within the $150 billion tax relief in the budget that we passed last week.

I think this is quite responsible and I think it is long overdue. We are talking about a tax correction as much as anything, because it is outrageous to talk about people who are single, working; they get married and they don't get salary increases, but all of a sudden they owe $1,000 more in taxes. It is time to correct this inequity. That is exactly what the bill before us does. It corrects the inequity all the way through the 28-percent tax bracket. It helps people all the way through those income brackets.

Mr. President, I ask my distinguished colleague from Alabama if he would like to speak. I don't know if others are waiting to speak, but he was waiting earlier. I am happy to yield to him at this time because he has been a leader in this effort.

How much time does the Senator need?

Mr. SESSIONS. Ten minutes would be fine.

Mrs. HUTCHISON. I will stop my remarks and yield to Senator SESSIONS for 10 minutes from our time.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Senator from Texas for her stalwart leadership in this bill. The President of the United States said in his State of the Union Message that the marriage tax penalty should be eliminated. Polling data shows that the overwhelming number of American citizens believe it should be eliminated. I had a meeting and a press conference with a number of families in Alabama on Monday, and we sat down and talked with them about the struggles they have. One couple had eight children. They are paying additional taxes because they are married. Another couple had just gotten married and had a young child, and they are paying more because they are married. Those are the kinds of things that are unexplainable to the American people. They are unjustifiable in logic, fairness, and justice. On a fundamental basis, the marriage tax penalty is an unfair and unjust tax. It is not that we are doing a tax reduction so much as we are eliminating a basic unfairness.

As I have said before, the challenge we are facing today is to create, as Members of this Senate, public policy that improves us as a people, that helps us to be better citizens. On every bill that comes through, every piece of legislation that we consider, we need to ask ourselves: Will this make us better

or improve us as a nation? When we have legislation and laws in force that give a bonus to people to divorce, we have something wrong.

I have a friend who went through an unfortunate divorce. They got that divorce in January. I was told: JEFF, had we known about it and thought about it at the time, we could have gotten the divorce in December and we would have saved another $1,600 on our tax bill.

The Federal Government is paying a bonus to people who divorce. In effect, that is what our public policy does. If they are married, they are paying a penalty. It is $1,600, according to CBO, for an average family who pays this penalty, and $1,400, according to the Treasury Department, President Clinton's own Treasury Department, that says the families who pay this penalty pay an average of almost $100 per month. That is a lot of money. That is tax-free money that they could utilize to fix their automobile, get a set of tires, go to the doctor, take the kids to a ball game, or buy them a coke after a game, or go to a movie, and do the kinds of things families ought to do.

Mr. BAUCUS. Will the Senator yield for a question?

Mr. SESSIONS. Yes.

Mr. BAUCUS. I ask the Senator, is the so-called marriage tax penalty a consequence of getting married or is it a consequence of getting married and the proportion of incomes each spouse earns? I might ask the question differently. How many people in America—if the Senator knows, and he may—get a bonus under our tax laws, not a penalty? What percentage of American taxpayers today receive a bonus as opposed to a penalty?

Mr. SESSIONS. I am not sure about any bonus factor.

Mr. BAUCUS. That is because when they get married, they pay less taxes.

Mr. SESSIONS. Well, 21 million, I believe, pay more taxes.

Mr. BAUCUS. I ask the Senator, are there some people getting married and, as a consequence, pay less taxes?

Mr. SESSIONS. That is perhaps so.

Mr. BAUCUS. It is so.

Mr. SESSIONS. It is a factor, as the Senator indicated, relative to the income that each person earns.

Mr. BAUCUS. What we are trying to do is find a solution that solves the problem of the disparity in what each spouse makes, which might then cause the penalty. For example, we all know when you have a married couple and one spouse receives more income than the other—considerably more—the joint tax is going to be less than if they are filing separately. We all know that. That is mathematically a given. The consequence, though, of a married man and woman who earn roughly the same amount is that couple pays more in taxes than they would pay if they were separate.

So what we are trying to do is solve the problem—if the Senator would agree with me—and to make sure that when a man and woman get married, we address the problem created when the two people have somewhat similar incomes, which then creates the penalty. So some who are married pay a penalty and some get a bonus. Aren't we only trying to solve the penalty problem for those couples who find themselves in a penalty position?

Mr. SESSIONS. I will just say this. The Senator is correct in saying this legislation deals with the penalty provision and does not attempt to increase taxes on married couples, to try to reach some sort of ideal level.

It is designed to provide relief from the penalty that occurs.

Does the Senator propose that we increase the taxes on those who may be paying less because they are married?

Mr. BAUCUS. If we are trying to solve the so-called marriage penalty problem, then we should try to solve the so-called marriage tax penalty problem.

Mr. SESSIONS. We are solving the marriage tax penalty problem. You may be complaining about the bonus some might get.

Mr. BAUCUS. If I could answer the question, on the other hand, if we want to do something else in addition to solving the marriage tax penalty problem, that is a different debate, and we should try to figure out how best to do that. As it is today, there are 25 million Americans who find themselves in the penalty position when they get married. But there are 21 million Americans who find themselves in a bonus situation when they get married. It is about 50–50. It makes sense, I think, to try to give relief to those in the penalty situation.

I am not sure if those who are already in the bonus situation need more relief, as contained in the Finance Committee bill, the majority bill.

I was asking the Senator why we are doing that. Why are we doing more than fixing the penalty?

Mr. SESSIONS. I think it would be a matter of some discussion if the Senator would like to have some hearings in the Finance Committee on whether or not these bonuses occur. I don't think they are as substantial as the penalties may be. They are not. But, at any rate, if the Senator wants to have hearings on whether they ought to be raised, then I think that is something that is worthy of evaluation.

Mr. BAUCUS. This Senator is not advocating any increase in taxes; no way at all. I want to make that clear. I know the Senator didn't mean to imply that I was thinking of raising taxes because I am not.

Mr. SESSIONS. We have a problem when two people are working and they are making $30,000 a year—just two, a man and woman. They fall in love. They get married. At $30,000 a year each, they end up paying about $800 more a year, which is $60 or $80 a month in extra tax simply for getting married. I want to eliminate that. If somebody wants to deal with the other problem, they can.

Frankly, I am beginning to observe there is a feeling on the other side that this bill needs to go away, that people are not willing to confront it directly. I hope that is not so. I hope we can see this legislation go forward.

Mr. BAUCUS. If I might ask the Senator one more question, is it better to try to find some way to pay down the national debt at the same time we are fixing the marriage tax penalty problem?

The Senator gave a hypothetical of a man and woman each earning $30,000. They get married and have to pay more taxes. That is not right. I totally agree that is not right. That ought to be fixed. Somebody who pays more income taxes as a consequence of getting married should not be facing that situation, and we should, in the Congress, figure out a way—as various proposals do—so a couple does not have to pay any more income taxes as a consequence of getting married. I agree with the Senator. That is not right.

Mr. SESSIONS. That is exactly all it does. Does the Senator disagree? This bill eliminates the penalty. That is what it intends to do. That is what the President says he supports. That is what the Senator from Montana says he supports. That is it.

I have the floor. I will yield for a question.

The PRESIDING OFFICER (Mr. FITZGERALD). The 10 minutes yielded to the Senator from Alabama have expired.

Mr. BAUCUS. Mr. President, I yield the Senator 5 minutes so we can continue this discussion.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I would be glad to hear the Senator's question on the point.

Mr. BAUCUS. The question I am asking is this: More than half of the Finance Committee bill does not address the marriage tax penalty problem. More than half goes to married couples who have no marriage penalty problem but who are already in a bonus situation.

I am asking the Senator: Most Americans would rather have the national debt paid down. Doesn't it make more sense for us to address the marriage tax penalty problem directly and to take the rest and help pay down the national debt?

Mr. SESSIONS. We are paying down the national debt in record amounts. As the Senator knows, we are down $175 billion this year. That will continue. The tax reduction that would be affected by this bill represents only, let us say, a small fraction of the total surplus we will be looking at in the next number of years.

If these so-called bonuses that the Senator refers to are primarily given to the one-income earner couple where a mother stays home and is not working, they receive some benefit from that. I think the bonus is not sufficient to make up for the fact that one of them stays at home.

Also, one of the most pernicious parts of this bill—the Senator from Texas has talked about this previously—is that we are attempting in America today to break through the glass ceiling to have women move forward and achieve equal income in America. That is happening to a record degree. But under the present Tax Code, the more equal the marriage partners are in income, the more tax penalty falls on them. In a way, as a practical matter, it seems to fall against working women in a way that you would not expect it to, and it is something we would not want to see happen.

We have unanimous agreement that the marriage tax penalty is a matter that ought not to continue. This legislation deals directly and squarely with that. It doubles the standard deduction. It doubles the brackets for married couples, which is the simplest and best way to achieve that. It will give hard-earned relief to married couples.

We had the spectacle reported of the witness who testified in the House committee that each year he and his wife would divorce before the end of the year, file separately, get the lower tax rate, and then remarry at the beginning of the next year.

We ought not to have tax policies that would make somebody feel as if they could get ahead of the system and save money for their family by divorcing every year. It is the kind of thing that is not healthy.

I appreciate the fact we are finally moving. I hope in a bipartisan way to see this bill become law.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, these are very interesting discussions. I think that for a long, long period of time people at the grassroots of America have understood there should not be a policy that hurts people who join in bonds of matrimony. Everybody realizes that the strength and foundation of our society is the family. The husband and wife are the strength of our society and the foundation of our society.

We have legislation before us that finally will end the penalty against people who marry and get hit with a higher level of taxation rather than two people who aren't married and filing separately making the same amount of income.

Basically, we are talking about the issue of fairness—in this case, fairness within the Tax Code; economic fairness for people who are married.

For about 30 years, our Tax Code has been penalizing people just because they happen to be married.

This is, of course, a perfect example of how broken our Tax Code is, and perhaps is an example that can be given with many other examples of why there ought to be a broader look at greater reform and simplification of the Tax Code. That debate is for another day. Even though 70 percent of the people in this country feel the Tax Code is broken and ought to be thrown out, there is not a consensus among the American people whether a flat rate income tax, which about 30 percent of the people say we ought to have, or a national sales tax, which about 20 percent of the people say we ought to have, should take the place of the present Tax Code.

I use those two percentages to show there is not much of a consensus of what should take its place and therefore probably not enough movement being reflected in the Congress for an alternative to the present Tax Code. Therefore, we find ourselves refining the Tax Code within our ability to do it—a little bit here and a little bit there.

One of the most outstanding examples of something wrong with our Tax Code is that people pay a marriage penalty, pay a higher rate of taxation because they are married as opposed to two individuals filing separately. As with the earnings limitation that discriminated against older Americans, a bill was recently signed by the President of the United States. This unfair marriage penalty needs to be dumped, as well.

I applaud my side of the aisle because it took a Republican-led Congress to repeal the Social Security earnings limit, but the President of the United States was very happy to sign that Republican-led effort. To be fair to the other side, it eventually did pass unanimously. It is the same Republican-led Congress that is taking the lead in repealing the marriage penalty tax.

I listened to a number of comments from the minority side yesterday. I came away with the conclusion they want the American people to believe that the other side of the aisle is for getting rid of the marriage penalty tax. Of course, the minority party had control of the Congress for decades and never once tried to repeal it. Even more interesting, I am afraid we could be victims of the old bait-and-switch routine. For instance, as this bill was being considered in the Senate Finance Committee, an amendment was offered by the minority to delay any marriage penalty relief until we fixed Social Security and Medicare. That is a ''manana'' type of amendment, meaning if we wait to do these other things tomorrow before we have a tax cut, we are never going to have a tax cut.

We may see that amendment again on the floor of the Senate. Remember, in committee, all of the Democrats voted for delay until Social Security or Medicare was fixed, and all the Republicans voted to fix the marriage penalty tax now. We all know neither the administration nor the Democratic side have comprehensive proposals to fix Social Security and Medicare. I have to admit, I am participating with two or three Democrats on a bipartisan effort to fix Social Security, but the administration has refused to endorse that bipartisan effort. There are also bipartisan efforts in the Senate to fix Medicare, but the White House has not endorsed those bipartisan efforts.

Saying that Social Security and Medicare ought to be fixed before we give some tax relief, and particularly tax relief through the marriage penalty tax, is like saying you don't want a tax cut. I am sorry to say at this late stage of this Congress, I don't think we will see from the Clinton-Gore administration any efforts to fix these problems this year in a comprehensive way. When they say we ought to fix Social Security or Medicare first, it is a manana approach—put it off until later; that day will surely never come if we follow that scenario.

The national leadership of the unions in America, the AFL–CIO leadership, put out their marching orders in a legislative alert making these very same arguments that I am sure is only coincidental. They urge that the marriage penalty relief should be delayed until these other problems—presumably Social Security and Medicare—are solved.

My friends on the other side of the aisle say they are for marriage penalty relief but only some time in the unknown future. That is, in fact, Washington, DC, doubletalk that continues to make the American people more cynical about whether Congress is ever determined and willing and committed to deliver keeping our promises. Delaying this tax relief means no tax relief at all. I hope taxpayers across the country will let their Senators know they have had enough of this doubletalk and that they will demand real action now, and sooner or later we will get this bill brought to a final vote.

Another misguided argument used yesterday is that under the majority bill married couples get a tax cut but single mothers with kids wouldn't get one. This is a complicated aspect of the bill, but the argument is not correct. Senators making these arguments repeated it, bringing emphasis to it, as if something new has been discovered, that some kind of smoking gun had been discovered. Unfortunately, for those Members' arguments, the statements are inaccurate. An important part of our bill repeals the alternative minimum tax for over 10 million people. Many helped in that provision will be single mothers.

There is something much more interesting about this argument; that is, the alternative that presumably will be offered by the other side of the aisle is the bill that flatout, without question, doesn't help single mothers at all. But that isn't even the most important point.

That important point is, if a single mother chooses to eventually get married—and since marriage is the foundation of our society, I think we all agree that this is a good move, both for the mother and the children—then, under our bill, she will not be penalized for being married. There will not be a

higher rate of taxation just because that single mother gets married. Under current law, if she continues to work after being married, the Government is going to slap her and her husband with a big tax increase. It is that sort of very bad situation our bill will eliminate.

In addition, it is important to note the alternative, from our friends on the other side of the aisle, discriminates against stay-at-home moms. Why should we have proposals before us indicating, if you decide you want to stay at home and raise your kids, spend full time doing it—probably the most important economic contribution you can make to American society, and you are not going to get paid for it, but it is a great contribution to American society. It might not be much of an economic contribution to the family because there is no income going to come as a result of it, but it is good for American society for kids to have parents who are able to be at home with them.

So if you decide to stay at home with the kids, you are going to be discriminated against under the alternative from the Democrat side of the aisle.

That proposal only helps two-earner couples. It not only doesn't help those single mothers over whom the other side of the aisle cries crocodile tears frequently, it hurts those families where one parent decides to stay at home with the children. I hope all of you stay-at-home parents out there listening understand what the Democratic alternative would do to your families.

It seems to me we should be helping people get married, encouraging marriage—it is the solid foundation of our society —not penalizing them for doing it. So, I hope we can get this bill to discussion without cloture. Obviously, there is a legitimacy for amendments from the other side of the aisle. There is even probably legitimacy for amendments from our side of the aisle. There ought to be agreement to those amendments.

It is really time for the gridlock to be over, to move to this bill, to get to a final vote. Now is the time to pass this very important reform, and I urge the Members of this body to come together on amendments, on limitations on discussions, and do what is right by passing this legislation.

Before I yield the floor, if I could do something for the leader: I ask unanimous consent the debate only continue on the marriage tax penalty until 5 p.m. today, with the time equally divided, and the majority leader recognized at the hour of 5.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. GRASSLEY. I yield the floor.

Mr. BAUCUS. Mr. President, I yield myself such time as I consume.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think it is important to lay things out as to what this issue is and what it is not. There is a lot of talk that this is a marriage tax penalty. There is even an implication by some that there is something put in the Tax Code to penalize couples because they are married; that is, they have to pay more taxes. Of course that is not true. A little history, I think, is instructive as to why we are here and what perhaps some solutions might be.

When the income tax was enacted, the Congress treated individuals as the unit of taxation, whether or not one was married. If somebody made a certain amount of money, he or she paid income taxes. If he or she got married, he or she was subject to the same rates, the same schedule. The individual was treated as the unit.

That was the case for a while. But many States in our Nation are community property States. They have different laws which determine to what income a man or woman in married status is entitled. In community property States, the rule is any income earned by a spouse is automatically community property and therefore is equally divisible. As a consequence, in community property States, each, the man and wife, would combine their incomes and file separately. That was upheld by the courts. That created a big discrepancy between community property States and common law States.

In common law States, an individual still had to pay the individual rates, whether or not he or she got married, which was just not fair. So Congress in 1948 changed the law to make it fair. What did Congress do? Congress in 1948 said: OK, we are going to double the deductions for married couples as opposed to singles, so when you get married, you do not pay any more taxes than you would pay if you were single. That was the rule of thumb. The brackets for the married were doubled, and the deductions were doubled.

That created another inequity. In this area of tax law, when you push down the balloon someplace, it pops up someplace else. The inequity created was the inequity for individual taxpayers because individual taxpayers say: Wait a minute, here I am as an individual taxpayer. I am paying up to 42 percent more in income taxes on the same income that a married couple earns. If the married couple earns $100,000, hypothetically, my taxes as a single individual earning $100,000 are up to 42 percent more than the couple's. That is not right.

Congress in 1969 agreed that was not right, so Congress went in the other direction. In 1969, Congress said: We are going to raise it, widen the brackets, adjust the brackets for individuals so they are a little more in line with those for people who are married.

The rule of thumb was a tax paid by an individual could not be more than 60 percent more than the taxes paid by a married couple. That was fine for a while. Then over the years we have a lot more couples where both members of the family are earning more income.

This is a long way of saying when we make some change in the law here, it is going to cause some inequity someplace else. It is a mathematical truth that we cannot have marriage neutrality and progressive rates and have all married couples with the same total income pay the same taxes. It is a mathematical impossibility to accomplish all three objectives. It cannot be done. So we have to make choices. The choices are whether to tilt a little more in one direction or the other. The bill before the Congress now is a good-faith, honest effort to try to solve that problem.

There are different points of view. The bill passed out by the Finance Committee attempts to solve that problem one way. The provision offered by Senator MOYNIHAN, the ranking member of the Finance Committee, had a different approach to solve that problem. Let me very briefly lay it out so people have a sense of what the two different approaches are to solve the marriage tax penalty problem.

Recognizing that today, to be honest about it, more married couples receive a bonus when they get married, not a penalty—or, to state it differently: More people, men and women, when they get married today, will receive a bonus; that is, they will pay less taxes as a consequence of getting married than they would individually.

It is true that about half of the people who get married end up paying more taxes, and that is called the marriage tax penalty. It is a consequence of the progressive nature of our Tax Code, along with a desire to be fair to widows and widowers and other single taxpayers, and to be fair to married taxpayers, making sure that some married taxpayers, who have the same income as other married taxpayers, do not pay more. It is a very hard thing to do.

The majority bill tries to solve it this way: It raises the standard deduction. It raises the 15-percent and 28-percent brackets. It changes the earned-income tax credit for lower income people. It makes no other change. It is pretty complicated.

As a consequence, some people who are married and pay a marriage tax penalty will receive relief but not all will. This is a very important point. The majority committee bill addresses only 3 of the 65 provisions in the code which cause the marriage tax penalty. That is standard deduction and the two brackets. That is all.

The chart behind me shows the situation. On the left is current law. There are 65 provisions in the Tax Code today which cause a marriage tax penalty. The GOP proposal, which is the column in the middle of the chart, addresses only 3, leaving 62 provisions in the code which cause a marriage tax penalty.

What is one of the biggest? Social Security, and it is a big one, too. It costs about $60 billion to fix. The majority

committee bill says: No, we are not going to help you seniors. If two of you get married, you have to pay more taxes. You have a marriage tax penalty; we are not going to help you. The majority committee bill does not deal with seniors at all.

There are a lot of senior citizens in our country who are not going to find any relief as a consequence of the majority bill. There are 61 other provisions in the code on which the majority committee bill will not give people relief.

The bill offered by Senator MOYNIHAN, the ranking member of the Finance Committee, is very simple. It says to taxpayers: OK, you have a choice. You, as a married couple, can file jointly or you can file separately. That is your choice. You run the calculation, and whatever comes out lower is presumably the one you are going to make.

What is the beauty about that? Why is that better? It is better because it is simple. The majority bill further complicates the code, and the code is complicated enough. The majority bill adds more complications by trying to deal with changing the deductions, phaseins, and so forth. There are a lot more complications.

The minority provision is very simple. It says: You choose. It does not add more complications. In addition, it addresses all 65 of the marriage tax penalty provisions in the code today. There are many of them. I mentioned one such as Social Security. That is one the majority bill does not address.

Other are like interest deduction of student loans. Many students have loans, and as a consequence of current law, when you get married, sometimes you pay more taxes. The majority committee bill does not do anything about that. The majority committee bill does not address that. It only deals with 3 provisions—the standard deduction and two brackets, 15- and 28-percent brackets. Those three provisions sometimes cause a marriage tax penalty.

The minority bill takes care of all the penalty provisions in the code. Look at the chart again. The zero under the Democratic proposal means there are zero marriage tax penalties as a result of the Democratic proposal. The GOP proposal has 62 remaining marriage tax penalties.

I am curious as to why they did not address those. I may ask some Members on that side as to why they did not address some of them. A lot of folks are going to wonder, senior citizens are going to wonder, somebody who takes an IRA deduction is going to wonder, someone who takes a Roth IRA deduction is going to wonder: Gee, why don't they take care of marriage tax penalties that affect me? I do not know. Maybe sometime the majority can answer why they do not address those other marriage tax penalties.

There are other inequities, but I am not going to get into all of them right now. We will get into them at a later date.

It is important to point out that there are two attempts to solve the marriage tax penalty problem: The majority committee bill only deals with three of the provisions in the Tax Code which cause a marriage tax penalty. The minority bill deals with all of them. There is no provision left as a consequence of the minority bill.

In addition, the minority bill is much simpler; one only has to choose, whereas in the majority committee bill, my gosh, one cannot choose; they are forced into a situation, and they are not part of the solution. They have to deal with extra complexities. It does not solve the problem.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I know the Senator from Kansas wants to speak, but if I can take a couple minutes to respond to some things the Senator from Montana stated, I think I should do that.

I yield to the Senator from Kansas such time as he might consume. I should wait until the Senator from Montana is on the floor before I give my response to him. I yield Senator BROWNBACK such time as he consumes.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleague from Iowa, Mr. GRASSLEY, for his leadership on this issue and for yielding me time to speak on this bill.

I, too, want to comment on the Marriage Penalty Act and the marriage tax penalty elimination, and some of the comments of the Senator from Montana. I wish he was still on the floor.

He says we have differences of opinion: The Democrats have a marriage tax penalty bill; the Republicans have one. He thinks theirs is better. Great. Let's have a debate on those two. Let's vote. I do not know when we have had as much clarity of differences between a Democratic bill and a Republican bill, where both parties have said we want to pass a bill on any issue this year, than the bill we have before us.

I am pleading with the members of the Democratic Party: Let's have a vote. Let's have a great debate. We will debate your bill for 2 hours, ours for 2 hours, vote on both of these, and let's get this moving forward.

If they want to pass a marriage tax penalty elimination bill, we have the time; we have the place; we have the floor; we can have this vote now. If they do not want to, and really all this is about is: Well, we do, but we are going to block this with eight or nine irrelevant amendments; we are really not that interested in doing this, then that should be said as well. They should be out here saying, no, this really isn't a high priority for the Democratic Party to pass, rather than saying, OK, we have a bill, you have a bill, and let's vote.

It is time we vote up or down, and we have the time before we go into a recess.

The other thing I would like to point out is the President sent us his budget for the fiscal year 2001. I have a copy of the budget the President submitted to us. In his budget, he inserted his support for eliminating the marriage tax penalty. In the President's budget, on the EITC, on page 57, entitled, ''Supporting Working Families,'' he says at the bottom of this page:

> In this budget, the President builds upon these policies that are central to his agenda of work, responsibility, and family.

He says:

> The budget expands the EITC to provide marriage penalty relief to two earner couples . . . .

That is what our bill does. We have a chance to get that particular provision that he is calling for in the budget to the President.

Going back now in his budget to the tables of his proposals and his 10-year estimates on it—this is on page 409—he provides for, and it states:

> Provide marriage penalty relief and increase standard deduction.

He does a much smaller one than we have put forward. I think he also even has a smaller one than Senator MOYNIHAN's proposal that came forward in the Finance Committee. But the President has said all along: Let's eliminate the marriage tax penalty. Let's do this.

It is in his budget.

He has asked us not to send him these gargantuan bills that have 20 different items in them. He asked us to send him one like we did on the Social Security earnings limit test. We passed that bill and sent it to the President. He signed it into law. He appreciated being able to have that degree of clarity and that degree of focus on a particular issue.

We have another one. We are having the debate on it. It is the time and the place for us to consider and vote on this now. We need to consider the proposals that the other party has, and to consider our proposals. Let's move this topic forward.

The President has said he wants it. I hope the President gets involved in this debate and urges the Senate and my colleagues on the other side of the aisle to vote on this issue and to get it to him—if he wants it. He said he did in his budget. If he truly wants this marriage tax penalty relief, let's have a vote, and let's get it to the President. We can do this now.

I am fearful. What I am sensing is that we are just getting a lot of delay tactics and no real interest in passing the marriage penalty tax relief. Clearly, there is not an interest to pass it before April 15.

People have the right to do those sorts of tactics, if they want to. But I do not think they should hide and say they just have a different bill, when the true desire here is to not have any bill go through at all.

This affects a lot of people. We have been over and over this lots of times. It affects 25 million Americans. In Kansas, 259,000-plus people are affected by

this marriage tax penalty that we have in place. The Senator from Montana has 89,000 people who are affected.

I am looking forward to the chance and the time when we get to actually vote on these issues. Frankly, I think we have had enough discussion about the Democratic proposal and the Republican proposal. We know what is in these proposals now. We know the costs of these proposals. We are ready to pass this. It is time to vote. I really do not understand too much what is holding this up from moving forward.

My colleagues and I have had a number of people contacting our offices saying that this is a penalty they want to see done away with.

They have contacted us numerous times. I have worked with the Members of the House of Representatives who have passed this bill already. They have sent to me letters from a number of people from across the country with their specific examples of how they are penalized by the marriage tax penalty.

This is a letter from Steve in Smyrna, TN. He says:

My wife and I got married on January 1, 1997. We were going to have a Christmas wedding last year, but after talking to my accountant we saw that instead of both of us getting money back on our taxes, we were going to have to pay in. So we postponed it. Now, for getting married, we have to have more taken out of our checks to just break even and not get a refund. We got penalized for getting married.

Then he concludes:

And that just isn't right.

I agree. I presume the Senator from Montana agrees. I presume most of the people on the other side of the aisle agree as well. Let's vote then and get a proposal out of here so we can actually deal with this.

Here is one from Wayne in Dayton, OH:

Penalizing for marriage flies in the face of common sense. This is a classic example of government policy not supporting that which it wishes to promote. In our particular situation, my girl friend and I would incur an annual penalty of $2,000 or approximately $167 per month. Though not huge, this is enough to pay our monthly phone, cable, water, and home insurance bills combined.

I think that is pretty huge when you are talking about that size of a marriage penalty.

This one is from Marietta, GA. Bobby and Susan wrote this one:

We always file as married filing separately because that saves us about $500 a year over filing married, filing jointly. When we figured our 1996 tax return, just out of curiosity, we figured what our tax would be if we were just living together instead of married. Imagine our disgust when we discovered that, if we just lived together instead of being married, we would have saved an additional $1,000. So much for the much vaunted ''family values'' of our government. Our government is sending a very bad message to young adults by penalizing marriage this way.

This is from Thomas in Hilliard, OH.

No person who legitimately supports family values could be against this bill. The marriage penalty is but another example of how in the past 40 years the federal government has enacted policies that have broken down the fundamental institutions that were the strength of this country from the start.

This one is from David in Guilford, IN:

This is one of the most unfair laws that is on the books. I have been married for more than 23 years and would really like to see this injustice changed so my sons will not have to face this additional tax. Please keep up the great work.

He goes on.

We have a number of different letters. I do not think it really bears going into much longer because what I hear everybody saying is: We are for eliminating the marriage tax penalty. The American public is for doing that. It is the time to do that. We now just have procedural roadblocks to getting it done.

That is the bottom line of where we are today. We could vote on this today. We could vote on the Democratic alternative. We could vote on the Republican alternative. We could have up-or-down votes on this today and get this through this body, get it to conference, and on down to the President, and see if he really meant it when he said in his budget that he wanted to do this, the EITC, the marriage tax penalty elimination, to see if he really wants to eliminate the marriage tax penalty. We could see if the President really meant that.

I invite the President to get involved in this debate so we can pass this through.

I have worked with the administration on a number of bills. I would hope they would start engaging us here saying: Yes, we want to do this and pass this on through.

Let's not stall it. Let's get this thing moving forward so we can send this message out across the country.

With that, Mr. President, I see several other Members on the floor. It is time to get this moving forward.

I just call on my colleagues on the other side of the aisle and say let's not play on this thing. Let's say we are going to pass it. Let's take the votes, and let's move forward.

I yield back to my colleague from Iowa.

Mr. President, if I have a minute or 2 more—I don't want to take up the time from my colleague of Iowa.

Mr. GRASSLEY. I thought the Senator yielded the floor.

I would like to speak now if the Senator has yielded the floor.

Mr. BROWNBACK. I yield the floor.

Mr. GRASSLEY. I yield myself 5 minutes.

First of all, I think there is a very general proposition about the Tax Code. I want to relate it to the philosophy of higher taxation on the part of the Democratic Party members; and that is, that the higher the marginal tax rate, the worse the marriage tax penalty is.

We have in 1990 the drive for increasing taxes by Senator Mitchell when he was majority leader. That increased marginal tax rates at that particular time. Then we have had the highest tax increase in the history of the country, which was the one that was passed within 7 months after the Clinton administration was sworn in in 1993, in which we still had two higher brackets put into the Tax Code.

Remember, that tax increase passed with 49 Democrats for it, and all Republicans and a few Democrats against it. It passed by Vice President GORE breaking the tie. Remember that we have a much worse tax penalty now than we did under the tax policies of the 1980s, when we had two brackets, 15 and 28 percent. The extent to which the marriage tax penalty is worse now than before is a direct result of higher marginal tax rates promoted by the other side of the aisle.

I also have to make a point in reference to what the Senator from Montana said today, as well as what he had said yesterday; that is, his accusation that the tax bill that reduces the marriage tax penalty before us is further evidence of the majority party trying to benefit higher income people. The Senator should be aware that his Democrat alternative actually benefits more higher income people than the bill that is before us by the Republican Party. I hope he will take a look at the distribution tables that show his bill helps more higher income people than the bill we are trying to get passed.

We have also heard arguments that this legislation does not end the marriage tax penalty in every way. This legislation ends the marriage tax penalty in the standard deduction and the 15- and 28-percent rate brackets and reduces it for virtually every family that suffers from the marriage tax penalty. This is the largest attack on the marriage tax penalty since its inception in 1969.

For many working couples, those in the 15-percent and the 28-percent tax bracket, which would be up to about $127,000 under this bill, this legislation effectively ends the marriage tax penalty. For those couples in higher income brackets, this legislation provides a significant reduction in the marriage tax penalty.

It is correct that this bill does not end all marriage tax penalties in the Tax Code. There are over 60 instances of the penalty in the code. This bill is about hitting the marriage tax penalty where it hits hardest—in the middle income tax brackets, the standard deduction, and the earned-income tax credit.

There is also talk about the bill before us resulting in more Tax Code complexity. Our bill is simpler than the Democrat alternative. Our legislation eliminates the marriage tax penalty in the standard deduction and the 15-percent and 28-percent rate brackets. How could this be more simple?

I hope we can have further discussion of these disagreements because I am convinced we can soundly overcome the arguments of the other side of the aisle.

I yield the floor. The Senator from Texas may use whatever time she needs or is available.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There are 6 minutes remaining.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Iowa for making those points because I think they are very important. The differences between the Democrat alternative and the Republican plan that is on the floor are actually quite extensive.

In the first place, the Democrat plan is $100 billion less in tax relief for American families. We are trying to cover more families. Not only are we trying to cover the people who are in the 15-percent bracket and the 28-percent bracket, which takes us through everyone who pays taxes up to $127,000 in joint income, but it also increases the earned-income tax credit for those who don't pay taxes at all. This is what helps a person who has been on welfare who goes to work and actually makes a salary of from $15,000 to $30,000 not have to pay any kind of penalty, even though they don't pay taxes.

We want to add to the $2,000 earned-income tax credit $2,500 more to the salaries that would qualify for the earned-income tax credit. This is an incentive for working people who are in the lowest levels of pay to continue working and to realize that it is more important for them to work and to have an incentive to work than to be on welfare.

The points made by the Senator from Iowa are very appropriate. The Republican plan not only offers more relief, it offers more relief to more people, $100 billion more.

Secondly, the Democrat plan is phased in over a very long period of time. It doesn't become fully effective until 2010. It is very backloaded. Fifty percent of it doesn't even take effect until 2008. We want to try to make that timeframe less, and we want to have significant tax cuts for hard-working American families.

Of course, we truly do believe that people will be able to make the decisions with the money they earn better than they will be able to live with decisions made in Washington, DC. In fact, I think it is very important that people realize, as they are writing their checks on April 15—or Monday, April 17, if they can wait until the very end—that the chances are they are in the 48 percent of the married couples. If they are in that 48 percent that has a penalty, their tax bill next year will be an average of $1,400 less, if we can pass the Republican plan, send it to the President, and if the President will sign it. The President has said he is for tax relief for married couples. We certainly think he should sign the bill. If he doesn't sign the bill, we would really like to know why because this is a better tax cut plan.

There is probably just a difference on what is a marriage bonus. For a married couple where one spouse decides to stay home and raise the children and they don't pay as much in tax as the single person doubled, I don't think that is a bonus. I would not want to tell my daughter, who has three children, that she is not working when she is staying home with them. Thank goodness we have people who want to stay home and raise their children. I don't want to make that decision for them, but I certainly want them to have the option and not be penalized in any way.

I think everything we can do to encourage families to be able to make that choice we should do. I do not consider it a bonus. What I want is total fairness. What I want is, if a person is single and marries another single working person, when they get married there is no penalty whatsoever. The $1,000 we now make them pay because they got married would be spent instead by them, to start building their nest egg, to have their first home, to buy the second car, whatever it is they need, as newlyweds, who are the ones who struggle the hardest. We want them to have the benefit of not having discrimination in the Tax Code.

What we are talking about is tax relief; it is a tax correction. It is saying that we don't want to penalize people for getting married. When 48 percent of the married couples in this country do have that penalty, what we want to do is correct it. I hope the Democrats will work with us to have relevant amendments that could be put forward. This is a good debate. I think we can differ on the way we would give marriage tax penalty relief. But my plea with the Democrats is let us take it up. Don't say that you have to offer extraneous amendments which don't have anything to do with marriage tax penalty, especially when President Clinton has asked us to send him a marriage tax penalty bill. That is what I hope will happen at 5 o'clock.

I hope the President will work with the Democrats and tell them he believes in tax relief. I hope we can pass that relief for the hard-working Americans who deserve a break. I urge my colleagues to help us offer these amendments. Let's debate them and let's give Americans tax relief as they are signing those checks to the Federal Government this week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana controls the remainder of the time until 5 o'clock.

Mr. BAUCUS. Mr. President, I see my good friend, the Senator from Texas, still on the floor. I will ask her a couple of questions.

Clearly, we both want to solve the marriage tax penalty. It is my judgment that we are going to pass legislation this week—I hope so. There will be a couple of amendments. It is normal and proper in the Senate for Senators who think they can improve upon a bill to offer amendments. I certainly hope we can dispose of the issue this week. I expect that to happen. I hope so. In doing so, obviously, we want to do what is right. When you do something, you should do your darndest to make sure you do it right the first time so you don't have to correct mistakes later on.

I am wondering why it would not make more sense to address all of the marriage tax penalty problems in the code in this bill rather than only a few. As the Senator knows, there are about 65 provisions in the Tax Code, the consequence of which sometimes results in a marriage tax penalty for some married couples—not all but for some.

I am not being critical of the provision offered by the majority. But as the Senator knows, in the proposal offered by the majority, they deal with only 3 of those 65 provisions; whereas, the way the minority attempts to solve this, or proposes to solve the marriage tax penalty problem is to allow optional filing; as a consequence, all 65 provisions in the code are dealt with, so that in the minority position all of the marriage inequities are solved—all 65 provisions.

I am wondering why—without being critical—it doesn't make more sense for us while we are here, while we are going to pass a bill relieving couples of the marriage tax penalty, to entirely solve the problem, as is the case in the minority bill, rather than only for a few, as is the case in the majority bill.

Mrs. HUTCHISON. I thank the Senator from Montana for saying, first of all, he thinks we will have a marriage tax penalty relief bill passed. I certainly think a couple of amendments—five or six or so—on either side, which are relevant, to try to perfect legislation is quite reasonable. I hope that is what the Democrats intend to offer. That isn't what we have seen so far. So perhaps we are coming to a conclusion. I hope so.

Let me say that if the only bill on the floor were the Democratic alternative, I would vote for it because I have voted for it before. It is not a bad plan. But I think the Republican plan is better. Here is why. First of all, our plan helps more people who are in the lower levels, the middle-income levels, who really need this kind of help. We say that if a single person making $35,000 married, or a single person making $30,000, you double the bracket so their combined bracket is going to be the same. They will not be penalized in the 15-percent bracket or the 28-percent bracket. Now, I would be for going all the way through those brackets because I am for tax relief for hard-working Americans.

Ours is a bigger bill. It covers more people. I think it is the better approach. I would be for bracket relief across the board, too, because I think the tax burden is too heavy and we are talking about the income tax surplus, not the Social Security surplus. So this

is the money people have sent to Washington that is beyond what the Government needs for the Government to operate. So I think ours is better, but I don't think yours is bad. I just hope we can give the most tax relief to the most people.

Mr. BAUCUS. Maybe the Senator is not addressing the question, for many good reasons. The question is, why not deal with all 65 of the inequities rather than only 3?

Mrs. HUTCHISON. If we took our plan and yours and put them together, I would think that would be better than the Republican plan. Your plan alone is not as good as the Republican plan because it doesn't give that much relief. Our plan gives $2,500 more in the earned-income tax credit. This is helping people come off of the welfare rolls and have the opportunity to be paid to make them whole. These are people who make $12,000 to $30,000 a year, when they have two children, a family of four. It also helps people in the 15-percent bracket and in the 30-percent bracket.

Mr. BAUCUS. I appreciate the Senator's remarks. We are on my time, so I will finish up.

Briefly, I think it is important to point this out. One of the provisions not dealt with in the majority bill is taxation of Social Security benefits. That is no small item. It would cost about $60 billion over 10 years if it were to be addressed. I remind people that today the majority bill before us is about $248 billion over 10 years. So, in addition, $60 billion is the amount that senior citizens would have to pay as a consequence of the marriage tax penalty, which is not covered by the Finance Committee bill.

I might add that, again, the minority bill does solve the Social Security benefits problem, as it does each of the other 62 remaining provisions in the Tax Code which may result in a marriage tax penalty. I hear people say, well, theirs is a better bill. But that doesn't get down to the specifics of what it actually does. I remind Senators that over half of the tax reduction in the bill offered by the Finance Committee goes to people who are already in a bonus situation. It has nothing to do with the marriage tax penalty.

I am suggesting that those are dollars that could be perhaps better spent for debt reduction. I think most Americans would like to see the national debt paid off. That makes a lot more sense to me. Or perhaps they would prefer that it go to education, health care, or whatnot.

We are here to address the marriage tax penalty. I think we should focus on the marriage tax penalty and, by doing that, I submit that the proposal offered by Senator MOYNIHAN, the minority alternative, focuses only on the marriage tax penalty. It is very simple to understand. Essentially, the taxpayers choose whether to file jointly or separately. I think that sort of empowers the taxpayers to decide for themselves what they want to do. They can be part of the solution where they pay lower taxes and not have to pay any marriage tax penalty at all. Again, $60 billion of Social Security benefits is not fixed by this bill.

I want to add this, and I know my time is about to expire, the AMT. One consequence of the committee bill is that there are 5.6 million more taxpayers who are going to have to file under the alternative minimum tax than today—5.6 million new taxpayers, new people who are not filing under the alternative minimum tax, separate and filing today, will not have to under the Finance Committee bill.

That is not the case in the minority committee bill.

I think we should give relief to those folks so they don't have to go to the AMT situation; or, to say it differently, the Finance Committee bill gives some relief to AMT taxpayers and then takes it back by saying now you new taxpayers have to file the AMT.

Why is that result? Why does that happen? It happens because of what I have said for a good part of this day; namely, the Finance Committee bill only deals with 3 of the 65 provisions. Those three are: the standard deduction, the 15-percent and 20-percent brackets. As a consequence, there is this AMT shift.

I don't think we want to say to 5.6 million Americans that you do not have to file the AMT today, the alternative minimum tax, and go through all of that and pay that tax, but now you will, as a consequence of the Finance Committee bill. I don't think we want to do that.

The PRESIDING OFFICER (Mr. VOINOVICH). The majority leader is recognized.

Mr. LOTT. Mr. President, may I inquire about the situation now? I believe we had general debate until 5 o'clock.

The PRESIDING OFFICER. The majority leader is correct.

Mr. LOTT. Mr. President, I understand Senator DASCHLE will be here momentarily. For his benefit, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, the Democratic leader and I have been working to try to reach an agreement to consider the very important Marriage Tax Penalty Relief Act. We started working on it yesterday afternoon sometime around 3:30 or 4. Senator DASCHLE indicated they had a number of amendments that they would like to have considered, and, of course, we asked for a chance to see what those amendments were. We, of course, urged that they be relevant amendments.

At about 3 o'clock today, we received a list of amendments that members of the minority wanted to offer to the Marriage Tax Penalty Relief Act. The list included nine amendments, five or six of which were clearly not related to the marriage tax penalty relief bill. And then about an hour or so later an additional amendment was added by Senator HARKIN. The list is now up to 10 amendments.

I indicated all along—like we worked it out earlier this year on the education savings account—that we could go with alternatives and relevant amendments. That is eventually what we did with the education savings account. Of course, I had hoped with the very overwhelmingly popular Marriage Tax Penalty Relief Act that we could do something similar to what we did on the Social Security earnings test elimination. That was something that had been pending in this body and on Capitol Hill for 20 years.

Finally, we worked it out. We had a couple of relevant amendments to which we agreed. We had a good discussion. We voted, I think, on one of those amendments. It passed unanimously. The President signed it last week with great fanfare that we had achieved this worthwhile goal.

I think we can do the same thing with the marriage penalty tax. But in order to do it, we need to keep our focus on what is the best way to provide this marriage penalty tax relief. Is it a phaseout? Should it apply to everybody? What can you do for those in the lower income brackets in how you deal with the EITC, earned-income tax credit, how you deal with the lowest and middle brackets? Is there a better way to do it or another way to do it?

Senator MOYNIHAN, Senator BAUCUS, and others on the Finance Committee, had a different approach. I described it then, and publicly I think it is a credible approach. I don't think it is as good as the one we had in the basic bill, but it is one that is worthy of being talked about and thought about. I hope we can work it out so we can do that.

We could have debate on the bill and then go to a vote on the alternatives and relevant amendments and get this finished by the close of business on Thursday or Friday at the latest. But the list we have is not only not relevant, but, first of all, we haven't had a chance to really look at how they would work or the details of the proposals.

One of them by Senator ROBB has to do with prescription drugs. Senator WELLSTONE has one which is something similar to the Canadian system of prescription drugs. But it looks to be a pretty detailed proposal that I don't think the Finance Committee has had a chance to consider.

We have one by Senator GRAHAM dealing with Medicare and Social Security priorities. I think he offered something similar to this in the Finance Committee. This is not one of which we

were unaware. We could have a discussion on that, and I think have a vote, but it certainly doesn't relate to the marriage tax penalty.

We have one on the college tuition tax credit. There is one on the CRT income. This is an agriculture issue. We have one on changing how you deduct a natural disaster impact on your tax form. I don't even know. That may be something we would want to look at doing. Don't we want to consider that in the Finance Committee, see what the budgetary impact is, and see what people are doing now versus what they might do under this proposal? It is something I would like to talk to Senator TORRICELLI about to see exactly what he is trying achieve.

Then, at 3:45, we got the amendment from Senator HARKIN. Honestly, I can't even quite tell you what it did. I believe that one relates to the marriage tax penalty. It would probably be relevant. Three or four of these could probably be relevant, and we could get them done.

I hope the Democratic leader would try to reduce his list or, at a minimum, make them work with us in getting relevant amendments to the marriage tax relief bill. I think that is a reasonable request.

I emphasize again that is what we did on the education savings account and on the Social Security earnings limitation.

Mr. President, I ask unanimous consent that the Senate now resume the pending legislation and that there be 10 relevant amendments in order for the Democratic leader, or his designee, and 2 relevant amendments in order for the majority leader to the pending substitute, with no amendments in order to the language proposed to be stricken, or motions to commit or recommit. I further ask unanimous consent that following the disposition of the listed amendments—certainly 10 would be an awful lot of amendments—and any relevant second degrees, the bill be advanced to third reading, and passage occur, all without any intervening action or debate.

I further ask unanimous consent that following passage of the bill, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on behalf of the Senate.

I finally ask unanimous consent that the cloture vote scheduled for Thursday of this week be vitiated, in view of this request, if it is agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I object.

Mr. President, I ask unanimous consent that the 10 amendments to be considered during the debate on the marriage tax penalty be the following:

An alternative amendment offered by Senator BAUCUS, or his designee; an alternative amendment offered by Senator BAYH; an alternative amendment offered by Senator KENNEDY having to do with Medicaid and family care, or a motion to commit on the part of Senator KENNEDY; a Robb motion regarding marriage tax penalty and prescription drugs; a Wellstone amendment on prescription drugs; a Graham amendment on Medicare and Social Security priorities having to do with the marriage tax penalty; a Schumer amendment having to do with college tuition tax credit and the marriage tax penalty; a Dorgan amendment having to do with taxation of CRP income; a Torricelli amendment having to do with tax consequences of national disaster assistance; and a Harkin amendment having to do with capping benefits in the bill and putting the savings into Medicare and Social Security trust funds on the marriage tax penalty relief legislation, as well.

I further ask that each amendment be limited to debate for 1 hour equally divided.

Mr. LOTT. Mr. President, reserving the right to object, could I inquire, is this the same list I was given earlier today plus the Harkin amendment that was added after that original list?

Mr. DASCHLE. That is correct.

Mr. LOTT. Is there any difference? I thought you indicated on a couple of these—and I referred to the earlier Kennedy amendment, which really is a major Medicaid change—you made it sound as if it might be relative to the marriage penalty tax.

Mr. DASCHLE. Mr. President, on several occasions we have had debates with the Parliamentarian and with the majority with regard to the issue of relevancy. I point out to my colleagues, the concept of relevancy is only defined as it relates to an appropriations bill. There is no definition of relevancy.

In our view, all of these issues are relevant to the debate on marriage tax penalty. We believe relevancy ought to be taken in that context. I am troubled by the interpretation we have gotten from the Parliamentarian a couple of times on the issue of relevancy. In our view, these matters are certainly relevant to the debate on tax consequences and marriage penalties.

Mr. LOTT. Is the Senator saying in each one of these cases what is offered would be in place of the Marriage Tax Penalty Relief Act in whole or in part?

Mr. DASCHLE. No. I am simply saying in most of the amendments offered there is a direct relevancy to the issue of marriage tax penalty.

I am also suggesting in all cases we would be prepared to limit the debate to 1 hour equally divided. Regardless of its relevancy, the fact is the majority leader would be able to begin this debate, conduct his debate as he has anticipated, with an expectation that we could finish by the end of the day tomorrow.

He has noted, of course, that he doesn't necessarily support or endorse many of these amendments. It is the right of the majority leader, especially given the fact that we have now submitted to a 1-hour time limit, that he can oppose them, he can table them.

Mr. LOTT. How about second-degree them?

Mr. DASCHLE. We would not agree to second-degree amendments.

To ask for the details on top of all of that seems to me to be a real stretch. I am sure that in good faith we can work through these amendments one by one.

That is quite an acknowledgment on our part, a willingness to submit to the debate, 10 amendments, 1 hour equally divided on each of these, most of them directly relevant to marriage tax penalty, but in all cases certainly relevant to the debate about priorities of the money being spent.

Mr. LOTT. Mr. President, I object to that with at least two observations.

The PRESIDING OFFICER. The objection is heard.

Mr. LOTT. For instance, the taxability of the CRP income—I don't know how anyone can stretch that to make it applicable to the Marriage Tax Penalty Relief Act.

Second, the request by the Democratic leader did not allow for second-degree amendments, or any alternatives, or any option—even side-by-side amendments by the majority. We certainly need to work through that.

I still think we can go forward and continue to work to try to find a list of, hopefully, relevant amendments that could be offered to get to a conclusion on the marriage penalty tax.

Since we are not able to reach an agreement at this time, I announce that the cloture vote will occur tomorrow unless we come to an agreement that allows a vitiation of that cloture vote.

Mr. DASCHLE. Mr. President, maybe you have to be in the minority to appreciate the position in which the minority has now been put once again.

The Republican majority is saying, first and foremost, we want to debate the marriage tax penalty. We say to that, absolutely; we want to debate the marriage tax penalty. We strongly support marriage tax penalty relief.

Then they say, we want you to limit your amendments. So we say, OK, we will limit our amendments.

Then they say, we not only want you to limit your amendments, we want to be able to tell you which amendments you can offer.

After saying first of all we will debate the marriage tax penalty, after secondly saying we will limit amendments, to give the majority now the right to dictate to the minority that they have the ability to determine what the context, what the definition, what the scope of our amendments ought to be, it seems to me to be an abrogation of all that is fair in debating an important issue such as this.

If we are going to spend $248 billion, there are other ways in which we can spend that money. Every one of these amendments in that context is relevant. Should we spend $248 billion on

a marriage tax relief bill, 60 percent of which does not go to those experiencing a marriage tax penalty? Sixty percent of that $248 billion does not have anything to do with the marriage tax penalty. It goes in most cases to people who get a marriage bonus.

We are saying let's fix the marriage tax penalty. But if you are going to spend all that money, we have a whole list of other things we think we ought to be looking at. It is in that context that I think we are being reasonable and fair, especially given the fact that we are simply saying we will agree to a limit on amendments, we will agree to a limit on time.

I think this Republican bill is a marriage tax penalty relief bill in name only. It is a Trojan horse for the other risky tax schemes that have been proposed so far this year. If this bill passes, Republicans will then have enacted $566 billion in tax cuts this year before they have even completed the budget resolution. That is not even counting the audacious $1.3 trillion their Presidential candidate, George W. Bush, has proposed as their standard bearer. Add $1.3 trillion and the $566 billion, and that is $2 trillion in tax cuts they are proposing without a budget resolution.

Is this the way we ought to spend the surplus, including the Social Security surplus? We are saying we can do better than that. We are saying we ought to look at providing prescription drugs for our senior citizens. We are saying we ought to look at college tuition tax credits. We are saying we ought to look at the Medicaid and CHIP health programs.

I remind my colleague, just this day last week, 51 Senators—Republican and Democrat—voted for passing a prescription drug benefit before we pass the first dollar in tax cuts. Mr. President, 51 Senators voted for that; a majority of Senators said we are for a prescription drug benefit before we are for a tax cut, any kind of tax cut.

We want to deal with the marriage tax penalty. We want to come up with an agreement on the marriage tax penalty. But if some Republicans want to run for Democratic leader so they can dictate to the Democratic caucus what our agenda ought to be and what our amendments ought to be, let them run. I will take them on. We can have that debate. We will have a good election in the Democratic caucus.

But until they are elected Democratic leader, I think Democrats ought to make the decision about what Democrats offer as amendments.

They can agree with us on time, on a limitation on numbers, but not on context, not on text, not on substance. That is what this is all about.

We will have the debate time on cloture if we have to. Like the majority leader, I am an optimist. I am hopeful we can come to some agreement. It certainly is within reach. But not if we are dictated to with regard to the text of the amendments.

I yield the floor.

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## MORNING BUSINESS

Mr. LOTT. I now ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak——

Mr. REID. Reserving the right to object——

Mr. LOTT. For up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The assistant minority leader.

Mr. REID. Mr. President, before the two leaders leave the floor, I want to say, first of all, the Democratic leader is being so generous. We, the Democrats, 44 of us, follow him in lockstep. But the fact is, he has gone a long ways towards accommodating the majority leader.

I would just say this in passing: If we are going to be logical about this debate, then if you look at the underlying bill, that is the marriage tax penalty the Republicans are pushing forward, you will find 60 percent of it is not relevant to the marriage tax penalty—60 percent of it is not relevant. So if he is talking about relevancy, which I think should have no bearing on the proceedings here, 60 percent of their own underlying bill is not relevant.

So I think, I repeat, our leader has been so generous, trying to move things along. I think his statement is underlined by all the other 44 Democratic Senators. We support every step he has made. We think he is doing the right thing in protecting the prerogatives of the Senate, having this debate in the Senate where there is free debate. We are not even asking for free debate; we are asking there be some debate, which is not being allowed.

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## VISIT BY THE PRESIDENT OF THE REPUBLIC OF COLOMBIA, ANDRES PASTRANA

Mr. L. CHAFEE. Mr. President, as chairman of the Subcommittee on Western Hemisphere Affairs, it is a great pleasure to welcome the President of Colombia to the Senate of the United States. I have been listening with rapt attention. He has been trying to explain to us his hopes for the future.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I join my distinguished colleague from Rhode Island, the chairman of the Subcommittee on Western Hemisphere Affairs; along with the chairman of the full committee, Senator HELMS; the distinguished majority leader; the minority leader; and other colleagues who are here—Senator BIDEN—in extending a very warm welcome to the distinguished President.

We have great admiration for him and the people of Colombia. The struggle in which we are all engaged affects all of us in this hemisphere, particularly those in the United States. And we know we are going to do everything we possibly can to see to it the support of the United States is forthcoming to President Pastrana and the people of Colombia.

Mr. President, you are warmly welcome here today. We are delighted you are with us.

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## RECESS

Mr. LOTT. Mr. President, I ask unanimous consent the Senate recess for 2 minutes for the purpose of the Senate welcoming and receiving to the U.S. Senate, the President of Colombia, President Andres Pastrana.

There being no objection, the Senate, at 5:23 p.m., recessed until 5:28 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I seek to be recognized to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senator from Kansas.

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## THE MARRIAGE PENALTY TAX

Mr. BROWNBACK. Mr. President, I appreciate the leadership on both sides and their discussion on us moving forward and dealing with the marriage penalty tax. I am glad we are finally coming together, but I would note the Senator from South Dakota has put forward, on behalf of the Democrat side, 10 amendments on this issue. Many of these are not directly relevant to what we are trying to get done. With all due respect to him putting these forward, and I appreciate them working with us some, we have a pretty direct issue in front of us. It is the marriage tax penalty.

To tie with it a discussion on prescription drugs, to tie with it discussions on Medicare, on Social Security priorities, on a college tuition tax credit, on conservation reserve programs, on the natural disaster assistance program, really just goes contrary, completely, to us ultimately trying to get this bill through.

What we have before us is a marriage tax penalty. We have two alternatives put forward by the Democrat Party. That is good. I think we can have good, direct, clear votes on that, and then we can press forward.

With all due respect to the Democratic leader, to call this a risky tax strategy, I think what is at risk if we do not deal with the marriage tax penalty is the institution of marriage in this country. What has happened is there is the fall-off in the number of people getting married, and then we tax them on top of that. That is risky.

They have said a number of times that 52 percent does not deal with the marriage tax penalty. It is all directly applicable to the marriage tax penalty.

The Democratic proposal actually enshrines in law a new homemaker penalty; that is, when one of the spouses decides to stay at home and take care of the children. The Democrat proposal makes families with one wage earner and one stay-at-home spouse pay higher taxes than a family with two wage earners earning the same income. Why discriminate against one-wage-earner families? That is a direct connection to the marriage tax penalty. That is a marriage tax penalty taking place with the one-wage-earner family.

Why do we want a Tax Code that penalizes families because one spouse chooses to work hard at home and one chooses to work hard outside the home? I do not see why we would want to do that.

There are a lot of things I like about the Democratic alternative, as far as doing away with the marriage tax penalty in a number of other places in the Tax Code. This notion of penalizing a single-wage-earner family is really not something we should be pressing.

More to the point, it makes the entire issue of the marriage tax penalty, all 100 percent of the tax cut, relevant to marriage. They are saying 52 percent of it is not relevant to the family. It is directly relevant to that one-wage-earner family. In many of those cases, they are saying it is not.

The other point, and I do not think it needs to be belabored: If we are ready to pass marriage tax penalty relief and both sides agree we need to pass marriage tax penalty relief, why would we take up a series of additional amendments on Medicaid, prescription drugs, Social Security, college tuition tax credit, Conservation Reserve Program, natural disaster assistance? Those are not relevant to the issue. We have a chance to do this particular issue, agree or disagree.

If the Democrats think this is too rich, let's vote on their bill; let's have a vote on it. We have the chance now to do that, to hone in on that. I am fearful that what I am seeing is more a block to dealing with the marriage tax penalty.

Mr. LOTT. Will the Senator yield?

Mr. BROWNBACK. I will be delighted to yield.

Mr. LOTT. Mr. President, I asked the Senator to yield because I very much agree with what he is saying and want to emphasize a couple points.

There is a Democrat alternative. I indicated even yesterday we would be glad to take up debate and vote on it. I note even the Washington Post yesterday said the problem, for instance, with the Democratic bill is it is backloaded and would actually cost more over a 10-year period and more of it would affect the upper end, the more wealthy people. That is the alternative that was offered in the Finance Committee.

I believe our bill is much more in line with what the average working American—a young couple and older couple, for that matter—would like to have. I appreciate the Senator's remarks.

I want to say something else for the record. A complaint was made a few weeks ago by the Democratic leader about the cost of this bill and whom it will affect. I will, once again, read briefly what this bill will do.

It will provide a $2,500 increase to the beginning and ending income level for the EIC phaseout for married filing jointly; in other words, a $2,500 increase for the earned-income tax credit joint or married couples. That is the low-end, entry-level couples who need help. There is a specific provision that will cost, over a 10-year period, about $14 billion.

It also provides the standard deduction set at two times single for married filing jointly, and it doubles the brackets for the 15-percent and 28-percent. Then it provides for permanent extension of the alternative minimum tax treatment of refundable and nonrefundable personal credits.

What is it in these provisions to which the Democrats object? It is aimed at low-end married couples. It is aimed at correcting a problem that was never intended, where people in the middle income are paying higher taxes because of the alternative minimum tax, and it is aimed at the lowest and the middle brackets. It makes good sense.

Once again, what the Democrats are suggesting is a diversion. They want to get into agricultural policy. They want to get into Medicaid reform. They want to get into anything to distract from the issue at hand.

We are perfectly willing to go ahead with relevant amendments on the marriage tax penalty. In the end, the question is: Are you for eliminating the marriage tax penalty or not? If you are, this is the opportunity. We will have a chance to see tomorrow who is really for it and against it.

I thank the Senator for yielding, and I thank him for his leadership on this issue. It is an issue he has been talking about ever since he arrived in the Senate. Now we have a chance to get it done. We should not get off on side trails on issues that will complicate or maybe even defeat our entire effort. I thank the Senator. Keep up the good work.

Mr. BROWNBACK. Mr. President, I thank the majority leader for his leadership and willingness to schedule this time. I am interested in dealing with this issue because we have been pressing it for years. We have been talking about it. Some have talked about it in campaigns.

Why do we want to tie in 10 other topics? We should not. I hope the Democratic leader and our side can get together and agree on a set of alternatives that are relevant. Let's have a series of votes up or down so we can deal with this marriage tax penalty relief bill. It is time to do that. We have the wherewithal to do it. I hope we will deal with this now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I actually want to proceed to morning business to introduce a bill, but having listened to the majority leader and having listened to Senator DASCHLE, I want to briefly respond to what I have heard on the floor of the Senate.

This is the Senate, and I thank Senator DASCHLE for representing me as a Senator from Minnesota so I can represent the people in Minnesota.

This proposal the Republicans have brought to the floor can easily be debated tomorrow. Senator DASCHLE made a proposal where there would be other amendments. They would be limited to an hour equally divided and up-or-down votes. It is a matter of whether or not my colleagues, the majority leader, and others, want to vote and want to be accountable for votes.

As it turns out, in the Senate, we come to the floor and we try to represent the people in our States. We will have an opportunity to focus on the Republicans' proposal. The problem with their proposal is it blows the budget, and the hundreds of billions of dollars that go into their proposal disproportionately go to people at the top. It is money that can be invested in other areas.

There are a number of Senators with amendments. Our amendments say some of that money, as my colleague from Montana mentioned, should be invested in kids and education; some of that money should be invested in making sure prescription drugs are affordable for senior citizens and others.

In my particular case, the proposal I talked about—and I have worked with Senator DORGAN, Senator SNOWE, and others on it—essentially says that when it comes to FDA-approved drugs in our country, there should be a way for our pharmacists and wholesalers to import those drugs back from other countries at half the cost and pass that savings on to consumers. That is called free trade. As a matter of fact, then people have less to deduct and there is less of a penalty.

My point is, with all due respect—and I am just speaking for myself—for too long the majority leader has come out here and has basically said: I am not going to let other Senators come out here with amendments that deal with issues that are important to the lives of people they represent; I am going to insist on only the amendments I say you can do, and if you are not willing to do that, I will file cloture and that is it.

That is not the way I remember the Senate operating for most of the years that I have been here. The thing that I have always loved about the Senate, the thing that I think has led to some really great Senators, is the ability for Senators to offer amendments, to speak out for the people they represent, to have up-or-down votes, and we would go at it.

If it takes us a week, it takes us a week. If we start early in the morning, and we go late in the night, that is the

way we do it. We are legislators. We are out here advocating and speaking and fighting for people we represent.

I thank Senator DASCHLE from South Dakota for essentially saying there is no way we are going to let the majority leader basically dictate to us what issues we should care about, what amendments we get to offer.

We have a different view about good tax policy. We have a different view about how to get the benefits to families. We also have a different view about other priorities that we ought to be dealing with on the floor of the Senate as well.

I will tell you, coming from a State where 65 percent of the elderly people have no prescription drug coverage whatsoever, I would like to see the Senate get serious on that issue. I would like to have an up-or-down vote. I would like to thank the minority leader for protecting my rights.

Finally, I ask the Chair, how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes 58 seconds.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2414 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WELLSTONE. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask unanimous consent to be recognized to speak as in morning business for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mrs. FEINSTEIN. Mr. President, I know there is a great deal of discussion going on about the marriage penalty tax. I wanted to stay out of the politics of it, if I could, and just speak about the merits of the proposals for a few moments.

Essentially, what we have are three proposals: the Finance Committee proposal of $248 billion, over 10 years; the Moynihan proposal, which is the Democratic proposal, of $150 billion over 10 years; and then I believe a proposal that is really worthy of very serious consideration by this body, and one which I would support, which is a proposal by Senator EVAN BAYH of Indiana for $90 billion over 10 years.

I believe this proposal is the most sensible and most fiscally responsible way to go about addressing the issue. More than 21 million couples suffer from the marriage tax penalty. In my State, there are close to 3 million of them.

I think providing marriage tax penalty relief is a measure of common sense and a measure of decency. The Tax Code not only can be used for revenue producing, but it is also used to encourage behavior that one believes one should encourage. Certainly getting married is a behavior that one wishes to encourage.

Who generally believes that the marriage tax penalty is unfair? They are young couples. They are getting married. Both of them work. They find out, for the first time, they actually pay more taxes if they get married than they do if they remain single.

These people are generally under the $100,000 earning limit. I have never heard anyone at the top brackets say they find the marriage tax penalty to be unfair. But I have heard considerable testimony from young couples getting married, young professionals: My goodness, we have to pay this penalty. Why is it? How is it fair?

Senator BAYH's proposal strikes right at that heart, and it does so in a way that you can say and I can say—every one of us in this body can say—we eliminate the marriage tax penalty for those earning under $120,000 all across this land within 4 years. I think it is simple. I think it is direct. It is cost effective. And it gets the job done. I think it makes a great deal of sense.

The targeted Marriage Tax Penalty Relief Act provides significant relief by creating a dollar-for-dollar tax credit, calculated by the taxpayer, using a simple worksheet, which offsets and eliminates the marriage penalty for families making under $120,000. The credit is phased out at $140,000.

The bill would also broaden the availability of the earned-income tax credit for low-income working families.

Under this legislation, half of all taxpayers with marriage penalties will have their penalties eliminated the first year. By 2004, it completely eliminates the penalty on earned income for all couples making under $120,000. That is approximately 17.5 million couples.

If you look at the fact that the impact of the majority proposal by the Finance Committee eliminates most of the marriage tax penalty on 21.6 million couples who currently face penalties by year 10, and provides a bonus—this does not provide a bonus; the phaseout in that bill is over 10 years—the phase in the Bayh bill is over 4 years. In the Moynihan bill, 21.6 million couples who currently incur a marriage tax penalty would find relief by year 10.

The beauty of this bill is that all of the marriage tax penalty is eliminated for 17.5 million people by year 4. And less than 10 percent of all households earn more than $120,000 a year. So, effectively, it covers not only 17.5 million people, but it covers over 90 percent of the population who would be affected. It does it at a cost that is much lower than the other two bills—$90 billion.

What I like about it is it gives us the opportunity to actually see tax reduction happen, to actually say that within 4 years the marriage penalty tax is completely eliminated for working families earning under $120,000 a year. We do it for a modest amount of $90 billion over 10 years.

The other bills deal with all kinds of different so-called hidden penalties, but those are not the real things that I think impact the people's drive to eliminate the marriage penalty. It is what happens when you get married. It is the increase in the tax when you get married. This is entirely eliminated within a 4-year period of time. I support Senator BAYH's proposal, and I will be pleased, when he offers it, to be a cosponsor of it. I hope it will have very serious debate and discussion before this body.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend from California for her statement.

This will come out later when we debate this more. I think it is important to note that the proposal advocated by my good friend from California has a certain deficiency, which is that it does not at all address the marriage tax penalty caused by unearned income. The proposal advocated by my friend from California deals only with the marriage tax penalty caused by earned income; that is, by wages and salaries. There are a lot of senior citizens in our country, as we know. Most of their income is unearned income. It is pension benefits, Social Security income. It is not wages or salary. As a consequence, there is about a $60 billion tax penalty over 10 years for senior citizens that is not addressed in the proposal offered by or mentioned by and advocated by the Senator from California but which is covered by the proposal offered by the Senator from New York, the Democratic proposal.

I will address another situation. There are lots of aspects of the marriage tax penalty provision. Again, there is nothing in the code that imposes a penalty on marriage. It is just that because of our combination of progressive rates, a desire to achieve neutrality between married taxpayers and individual taxpayers with the same income, a desire to achieve equality between married couples with the same income but with different distribution in earnings, we end up with this problem. There is no total fix. It is just a matter of trying to figure out what makes the most sense.

This chart deals with only one aspect of the so-called marriage tax penalty. That is the example of the marriage tax penalty in the earned-income tax credit, the EITC, a provision in the law which is to help low-income people who otherwise face a significant tax burden, let alone all the other difficulties they are facing in life with low income. This chart shows first a single mother with two children. Let's say her income is $12,000 a year, which is very common. She, today, would receive an earned-income tax credit benefit of $3,888.

Let's take a single father with no children. Let's say his income is the same; it is $12,000. Obviously, he receives a zero earned-income tax credit. Let's say the single mom with two children marries the individual with no children. Now they are married with two children. Their total income will

be $24,000, hers $12,000 and his $12,000. But because of the marriage tax penalty, because of the way the Tax Code works, and in particular the EITC provisions which are very complex, as a consequence of the man and the woman getting married, their now joint earned-income tax credit will no longer be the $3,888, which the woman alone with her two children would receive. Rather, now that they are married, the combined EITC benefit would be lower, in the neighborhood of $1,506, a clear penalty for getting married. It is something we want to fix.

It has been stated several times that the proposal, the Finance Committee proposal helps low-income people by addressing the marriage tax penalty under the EITC. It does, but not very much. The maximum amount of relief that can be received under the Finance Committee bill in addressing a potential $2,382 penalty is $500. That is the maximum amount of benefit under the marriage tax penalty that is addressed in the Finance Committee bill.

Contrast that with the Democratic alternative. Under the Democratic alternative, there would be total relief; that is, a single mom with two children and a single father with no children, when they get married, would receive no penalty. Why is that? Because of the simplicity of the Democratic alternative. The simplicity is, if you are married, you just choose. You file jointly or you file separately. You choose the one which results in lower tax. As a consequence, all of the 65 provisions in the Tax Code which sometimes cause a marriage penalty are addressed. They are all solved.

The minority bill solves completely the marriage tax penalty problems facing some Americans. Contrast that with the Finance Committee bill, which does not solve completely the marriage tax penalty problems facing some married taxpayers because the Finance Committee bill deals with only three of the inequities, not all 65.

This is just one of the inequities the Finance Committee bill does not address very much. There is kind of a little tack-on provision which addresses it. But as a consequence, the Democratic alternative completely solves the EITC problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, we did spend some time today debating the elimination of the marriage penalty tax. This is something I have been working on for all the years I have been in Congress in the Senate. I look forward to the day we can repeal it. I was hoping we would have this vote in the near future. I very much regret the delay that was imposed upon us by the minority because by putting nongermane amendments on this, we slow down what we could accomplish here in the very near future, which is finally to eliminate the marriage tax penalty.

I have an amendment prepared to implement elimination of the marriage tax penalty a lot sooner. I am contemplating offering that. I will see how much support there is for it. Before I do that, however, instead of the proposed phase-in period of 6 years, which is the underlying proposal, my amendment would eliminate the marriage penalty tax immediately, bringing working parents tax relief right away.

According to the Congressional Research Service, as this graph shows, the additional savings my plan would bring married couples over the Roth plan would be almost $3,000. If you look at the years, we go from $69 versus $879 in 2002, all the way over to 2008, where it evens out. The point is, these are savings for a married couple—about $810 in the first year, 2002—if we put it into effect immediately.

With today's cost of living exploding, education, tuition, high prices at the pump, that is a substantial savings for an ordinary working family. I think we ought to make this effective today, as soon as it passes, and not implement it over a 6- or 7-year period. Married couples have been waiting for a large number of years, since this ridiculous provision was put in the IRS Code.

It is not often we have the opportunity to right a wrong around this place, but this is an opportunity. I sincerely hope we take advantage of it.

Today, however, not only do we have the opportunity to turn back a tax, we also have an opportunity to turn back an unjust tax that punishes an institution that is the very backbone of society, at least in most of our minds.

You hear some people say that it isn't. But marriage is the backbone of our society, the essence of our families. One of the reasons why we are having a lot of cultural problems today is a lack of emphasis on the family and marriage. Twenty-five million couples are subject to the marriage tax penalty in America and, frankly, those of us who have not had the courage to overturn that tax over the past several years deserve some of the blame because it punishes married people. In New Hampshire alone, almost 140,000 couples will be hit with a marriage tax penalty. In a small State such as New Hampshire, which only has a little over a million people, this tax is antimarriage, antifamily, and antichild. Children reared in two-parent homes are more likely to succeed in school, stay away from drugs, and not become involved in crime. We should not penalize married couples. It doesn't make sense.

A way for couples to avoid the marriage tax penalty is they could file for divorce and save money or they could not get married and save money and just live together. That kind of tax policy doesn't make sense. The average marriage penalty is $1,400, or more, in additional Federal income taxes, which is more than $100 a month. That is an extra $1,400 that could be used to buy school clothes for kids, pay for a home computer, perhaps, or a little health insurance, or maybe take a family vacation. The point is, you would have control over an additional $1,400 to do with what you want, and not have the Government taking your money whenever it wants.

I have received a lot of mail on this issue over the years asking for relief—I might say, begging for relief, for the Congress to do something. Just one example. A gentleman by the name of Roy Riegle from Derry, NH, wrote this:

> I am a software engineer working in Merrimack and living in Derry. Via the Web, I just learned of the House Passage of the ''Marriage Tax Cut'' bill. (I think it is H.R. 6). I want to heartily encourage you to vote for this bill when it reaches the Senate. We are one of the classic middle class families (I'm an engineer and my wife teaches in Chester) who are trying to pay for our kid's college education. Our cost to send our second daughter to Trinity College in Hartford, Connecticut, next year is expected to be $20,000. We need assistance of some sort, and this will help. Thank you for your consideration.
>
> ROY RIEGLE.

That is so true of many families trying to meet expenses and pay education costs. For all these millionaires and billionaires you read about and hear about all over the country making all this money, maybe $100 a month isn't important. But it is real important to people such as the Riegles and so many others who have written me on this issue over the years.

Since 1970, the number of dual-income couples has risen dramatically and continues to rise. It is these families who will benefit from the repeal of this tax. What an outrageous tax this is, to discriminate against people who are married. It is just un-American, and how it ever got in the code is beyond me. Why it hasn't gotten out in all these years is beyond me.

I think we should understand that the reason why, as we stand here now, we have not been able to pass this on the floor of the Senate today is because of delays, because the other side wants to offer nongermane amendments to slow it down, to say we have to pick and choose which family gets a break. You have to be in a certain income tax bracket, or you have to be a certain type of person to get a break, and all this nonsense. Everybody should get the break. The marriage tax penalty itself is unfair. It is not more or less fair for one family or another, depending on the income. It is an unfair tax. Let's get rid of it, period. There is nothing complicated about that. This year, Americans will give 39 percent of their income to the Federal Government. As tax levels rise, women who might otherwise stay at home are forced to enter the job market. The percentage of single-worker households in the U.S. has plunged to 28.2 percent, compared with 51 percent in 1969. However, the harder parents work to keep pace, the greater their chances of moving into a higher tax bracket and winding up giving more to the Government.

Mr. President, in conclusion, these families are right. These taxes do penalize. If we are going to penalize the

sacred institution of marriage and offend our sense of decency and morality, if that is what is going on in the Tax Code, we need to correct it.

We should be encouraging the makeup of the family, not the breakup of the family. We should bring tax relief to married couples today—not tomorrow, not next year, not 6 years down the road, but today. They have waited all these years with this discriminatory tax. We can never make it up to them, so let's start today and make it effective today. We can bring tax relief to these couples by passing my amendment and, if not mine, at least we should get started with the underlying bill. It is better to do it down the road, over the course of 6 years, than not at all. With my amendment, we can do it immediately and save all of this money each year for each of these families.

(Mr. ALLARD assumed the Chair.)

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## ELIAN GONZALEZ

Mr. SMITH of New Hampshire. Mr. President, I want to talk on a subject that has been in the news a lot. I will take a few minutes of the Senate's time. I have been involved in a lot of issues. I have debated just about everything known to mankind on the floor of the Senate, as have most of us. I am in my tenth year in the Senate, and I have never been involved in an issue that has gotten to my heart more than the Elian Gonzalez case—never. Last night, on the Geraldo Rivera show, a poll was shown saying 61 percent of the American people said Elian Gonzalez should go back to his father, and 28 percent of them said he should stay here in America.

Here is this little boy who floated in the ocean on an innertube after his mother died trying to bring him to America. So we are now going to conduct policy about what to do about Elian by reading polls. Where is the leadership in this country when we need it? This is not about polls. I don't care what the polls are. I could care less what the polls are. If Lincoln had taken a poll on slavery, we would probably still have slavery because the majority of the people in America at that time supported slavery. But he didn't take a poll or put his finger to the wind. He did what was right.

Again, I plead with my colleagues in the Senate to grant Elian Gonzalez and his family permanent residency status so this issue can be handled by a Florida custody court. This should not be an immigration matter. Elian Gonzalez did not get on a yacht and cruise into Miami Harbor. He and two other people almost drowned while everybody else on the boat—10 or 12 other people —lost their lives. And his mother's dying wish was to ''please get my son to American soil.''

I have heard a lot about the father's rights. I have nothing against him. He could be the nicest guy in the world. I have met Elian. I didn't get a chance to meet Elian's mother because she didn't make it. If she had made it, we would not be here talking about this because, under the law, she and Elian would be allowed to stay here. So because she died, Elian has no rights.

Those of you listening to me now who think this is a father-son issue, I want you to listen carefully to what I have to say because it is not a father-son issue. That is a totally bogus argument. There are reports in Miami that Elian is reluctant to travel to Washington to see his father. He is a frightened little boy. Wouldn't you be after you survived that? Has anybody listening to me now ever gone through an experience like that—floating on an innertube on the high seas for 3 days, after you watched your mother die, and everybody else on the boat is gone except two others he didn't know were alive because they were drifting off somewhere else. And then to be sitting in a home in Miami, with people who love him, who have taken care of him, and to wonder if today, right now, tonight, tomorrow morning—he doesn't know when—maybe noon tomorrow, in comes the large, sweeping hand of the Justice Department and Janet Reno, and they yank him from the arms of these people who love him and drag him back to Cuba. That is what he is sitting through now and worrying about now. He is a frightened little boy. When are we going to be concerned about this frightened little boy?

I am tired of hearing about everyone else's rights in this debate. I am sick of it. I am sick of the fact that I can't get a vote on the floor of this Senate because the people do not have the guts to vote. They do not want to be recorded. I am sick of it because this little boy is going to be dragged back to Cuba, and he is going to be used as a pawn in Castro's—God knows what—forsaken land over there. And we have to live with it. We ought to be recorded, and we ought to be on record. We ought to stand up and be counted. I am sick of it. I have been quiet too long. I am not going to be quiet anymore.

He is fearful of returning to that country. I talked to him. He said: Senator SMITH, please help me. Don't send me back to Cuba. I said: Elian, do you love your father? Do you want to go back with your father? He says: Yes. I want to be with my father. I don't want to go back to Cuba.

Mr. Gonzalez, if you are listening to me, why don't you defect? It is a heck of a lot better here.

I am going to tell you that there is one shining example of why it is not about father and son. It is not about father and son. I am sick of it. Listen to me—one shining example of the human rights violation of Fidel Castro.

Where are all the human rights people who care about this? Where is the Catholic Church that sheltered all of these Communists during the Nicaraguan and El Salvador issue? Where are they? Silent.

Let me tell you about Fidel Castro and what little boys such as Elian look forward to, and what Elian will have to look forward to when he is dragged back to Cuba—for his father. Give me a break, Ms. Reno.

On July 13, 1994, 72 Cuban men, women, and children boarded the *13 de Marzo*, a tugboat, trying to sail for freedom to the United States, just like Elian did. Less than 3 hours later—3 hours later—32 of them would be forced to return to Cuba—they were the lucky ones—while the other 40, 23 children among them, were left by the Cuban authorities, their bodies scattered at sea.

At 3 o'clock in the morning, 22 men and 30 women boarded a recently renovated World War II tugboat in the Bay of Havana. With them were over two dozen children, one an infant, and several others between 5 and 10 years old.

I am going to show you some pictures of the children who boarded that boat who never returned. I want to show you pictures of children who died such as these children right here:

Caridad Leyva Tacoronte, dead, 4 years old;

Angel Rene Abreu Ruiz, dead, 3 years old;

Yousel Eugenio Perez Tacoronte, dead, 11 years old.

Let me tell you how they died with this dictator who tells you that he wants to welcome this little boy back to Cuba so he can be with his father. If Castro had caught him, he would be dead. All of them would have been. He would have killed them. But he didn't catch them. They drowned.

Now Elian has to be told that he has to go back. His father said the other day, ''Four months I have been waiting for my son.''

Where have you been, Mr. Gonzalez? Nobody is stopping you from coming here, except Castro. We don't have any policy that says you can't come here.

Let me tell you what happened to these kids. This little tugboat was detected, and it was approached by the Cuban coast guard. The government boat did not attempt to stop the *13 de Marzo*, the boat. It didn't try to stop it. Instead, it stalked it for 45 minutes along the coast of Cuba, 7 miles out at sea—stalked it, intimidating it.

The U.S. Coast Guard protects life. The Cuban coast guard exterminates life.

It was then that the government vessel, beyond the sight of any witnesses on land, rammed this defenseless boat. This is 1994. This isn't 1959. This is 1994, 6 years ago. Defenseless people were in a little tugboat which was rammed by the Cuban coast guard.

According to the testimony of several of the survivors, two Cuban government firefighting boats appeared and began to pummel the passengers with high pressure firehoses.

You can imagine how horrible that was.

Although the passengers repeatedly attempted to surrender to the government officials—even women holding their children up on deck, saying,

please, my children; it is my child; don't kill my child. They were begging for their lives, but they were relentless, this wonderful Castro who is so concerned about getting this little boy back to his father in Cuba.

The force from the firehoses you can imagine. One survivor, Mayda Tacoronte Vega, told her sister that she witnessed children sprayed from the arms of their mothers into the ocean waters. Other children were swept over the deck by the firehoses into the sea and drowned. Desperate to protect their own children, the women carried the remaining children down into the boat's hold.

Gerado Perez Vasconcelos, whose ex-wife and son perished that day, told of how the firehoses were filling the hold with water. The boat sank, and she didn't see anybody coming out of the hold.

With most of its weaker passengers already drowned inside the hold, or in the sea, the tugboat filled with water, cracked in two, and was rammed again just to be sure, and it sank.

Over the course of a few minutes that day, Maria Victoria Garcia lost her husband, her 10-year-old boy, her brother, three uncles, and two cousins. For what? For trying to get out of Cuba, this place that we are going to send Elian back to, maybe tomorrow.

Her poignant testimony revealed what happened to her and her son once they were in the water. ''We struggled to stay above water by clinging to a floating body.''

I wonder what Fidel would have done if Fidel had found Elian floating in the tube rather than these two fishermen.

''We struggled to stay above the water by clinging to a floating body,'' this woman said. ''I held onto this body because I just didn't have the strength to go on. But people fell on me, and my son slipped from my grasp,'' just as Elian's mother slipped from his grasp.

The young boy could fight the huge waves created by the Government vessels, and his mother was forced to watch helplessly as her baby drowned only 5 feet away.

Angel Ruiz, 3 years old, Fidel Castro, that wonderful, little child-loving dictator over there, took care of her.

There is Yousel, he is 11.

Nineteen-year-old Janette Hernandez Gutierrez also courageously attempted to save the life of a child just before the boat was fully submerged. ''We went to look for the other child. Just as I was about to get off the boat, I felt the child * * * had caught my foot. And when I was about to grab him, my shoe slipped off and down he went. I couldn't reach him. That was horrible * * *.''

Hernandez went on to describe the scene of the massacre: ''There was a child who was inflated like a toad, inflated with so much water.''

The merciless attack left 23 children and 17 adults dead in the Florida Straits.

You say: Oh, well. That was just a bunch of Castro's goons who got a little excited; no big deal. This is not about that. Elian's father loves him. He should go back.

Here is what Castro says about Elian, in case you want to know:

''The team is ready,'' Castro said, referring to when Elian comes back, ''to proceed without losing 1 minute with the rehabilitation and readaptation of Elian to his family.''

Yes. Absolutely. You talk about psychological trauma. You don't know what psychological trauma is until you deal with what this little boy has to deal. Not one person in the Justice Department has asked Elian one question about what he wants.

I have been there. I have talked to him.

The 32 survivors—maybe they were lucky. Maybe they weren't. They were taken to a prison where they have to endure life separated from their surviving relatives.

Not only did the agents refuse to search for the dead, they mocked the survivors and the relatives of the deceased and laughed at those who asked the state security to reclaim the bodies, said Geraldo Perez in a tearful press conference.

The officials said the drowned were nothing other than counterrevolutionary dogs. Will we send this ''counterrevolutionary dog'' back to Castro? Is Elian a counterrevolutionary dog? Elian had a taste of freedom. What if he resists the lack of human rights in Cuba? Will we hear about it? I don't think so. We will not hear about it, but Elian will hear about it. What do you think his father will be able to do about it?

I ask some of my critics on the 61 percent, pick up a book about Fidel Castro's Cuba and look up the word ''pioneers.'' Let me tell you about the Pioneers. Elian was a Pioneer before he escaped. What do Pioneers do? They have a little indoctrination school. Here is one of the little drills they do for the children at the age of 3: Hold your hands out—put on a blindfold. Hold your hands out, ask God for some candy, and wait. No candy comes. Close your hands, put them down. Put your hands back up again, ask Fidel Castro for some candy, and watch it pour into your hands.

That is what Elian has to look forward to. It is called brainwashing—nothing complicated about it.

The Union of Communist Pioneers is a compulsory political organization for children and adolescents created by the government for youngsters in kindergarten to 12th grade. It functions as the first step toward joining the Union of Communist Youth. Approximately 98 percent of the children in elementary school are enrolled. It is not presided over by a child or adolescent, as one would expect, but by a high-ranking adult member of the Union of Communist Youth.

Don't give me this stuff about him going back to his father. He is not going back to his father.

What about his mother? Why does she not have rights, too? She had custody. She was taking care of him. The dirty little secret which Mr. Gonzalez will not talk about, because he can't, because of the long arm of Castro—where is he? He is in Bethesda, in a Cuban diplomat's house. He has a lot of free time to talk there. He can speak freely there, can't he? Reno has the nerve to say: We talked out there, we talked alone, and he didn't say anything about defecting.

Come on, give me a break. Attorney General Reno, you could have stopped it 4 months ago, and you can still stop it today. Let it go to a custody court. Get out of it. It is not an immigration matter. He didn't immigrate here in the way we define immigration. Let it go to the custody court in Florida, and let them decide, if they need to. Let the family sit down alone without Fidel Castro, without any government officials, and let them talk about it. If they can't work it as a husband and wife can't work out custody of their children, go to court, and let the court make the determination based on all of the facts.

There is a dirty little secret about Mr. Gonzalez. Yes, there is. Did he know Elian was coming? Sure, he knew. He knew they were leaving. He was called when the child was picked up and went to the hospital. The doctors wanted to know whether he had medical problems or history they needed to know about, so they called him in Cuba while the family was there. He said: Take care of my son; I will be there soon.

We are not hearing about that, are we? We will not hear about that because we don't want to do anything to make Fidel Castro angry at the United States. After all, Bill Clinton wants a legacy of breaking down the barriers between Cuba and the United States. That is what this is about. Let's get real. God knows, he needs something to save his legacy, so we will take it out on Elian Gonzalez. After all, he is an expendable little kid. We don't care about him. That is just one kid. Let him go back to his father.

If your son was lost at sea for 3 days and everybody on the boat drowned and somebody found him, I don't care who it was—it could be a convicted murderer who found him, who cares—if he found him and brought him home, wouldn't you ''thank him?'' Wouldn't you say ''thank you''? Wouldn't you thank those who took care of him, if you loved your son?

Let me state what happened. There was no thank you. When he got off the plane, he said: They were a bunch of kidnappers. I want my kid back. They kidnapped my kid.

Kidnapped my kid? I am not passing judgment on this guy. He could be the greatest father in the world for all I know, but he will not get a chance to be a father because the Cubans have already said this boy is the property of Cuba, not Mr. Gonzalez. Mr. Gonzalez will do what he is told.

I want your kid.

OK; when do you want him? Where do I take him? Where do I drop him off?

As recently as April 2, Fidel Castro called the Miami relatives of Elian Gonzalez, Elian's unpunished kidnappers. Do you think little Elian will go back and tell his classmates and his father and those people in Cuba that these people were kidnappers who took care of him, who saved his life, the fishermen and the family who took care of him? I don't think so. What will happen? We can't afford to have little Elian running around saying bad things about Cuba or good things about America. No. Elian will pay the price.

We don't have the guts to stand on the floor of the Senate as a Senate, all 100 Members, take a vote and say he should go back to Cuba or the case should go to court.

Some say we might lose. Yes, we might. I think the vote count is probably 45—maybe. So what? We could take a walk on a number of issues before this body such as whether or not we should go to war in the Persian Gulf. We could have taken a walk on that and let the President go ahead and do it, but we took a vote. It was a tough vote. We take a lot of tough votes around here, and a lot of people die as a result of votes, especially when we vote to go to war.

The headline in ''Granma,'' the Communist Party newspaper, after the incident was: ''Tugboat Stolen by Antisocial Elements Loses Stability and Sinks.''

On August 5, 1994, Fidel Castro declared that the roots of the accident were manifested in the conduct of the United States; it was the United States' fault that these kids drowned.

Dr. Marta Milina, a Cuban psychiatrist who escaped Cuba in August of 1999, stated: If Elian Gonzalez is returned to Cuba, he would have severe psychological trauma.

Is that in the best interest of Elian? Is it about Elian? Or is it about his father? The answer is, a custody court would know that because a custody court, if the family could not agree, would listen to the facts. They would make that determination. But they have never spoken, and the Justice Department has never spoken to Elian.

This is one smart little boy. Meet him. And I am sorry the Attorney General does not believe it is important enough to meet him, but I will never forget him. He carried around a little statue of the Virgin Mary in the home where we were. I said: Who is that? He said: Virgin Mary. He said: I saw her while I was on the raft.

Another story that is not recorded, and the fishermen will tell you, when they found him, he was floating in that little tube, asleep. You can substantiate this by talking to the family if you don't believe me. He was in the ocean for 3 days in the bright sunshine, didn't have a sunburn, and he was surrounded by dolphins, and dolphins will ward off sharks.

This little boy is a very special little boy in more ways than one. The fact that we allow him to go back to Cuba under the auspices of uniting a father and a son is the most outrageous decision this country will ever make. Frankly, I do not want that blood on my hands. I know that is tough talk, and I mean every word of it. I don't want it on my hands. I have seen too much of it.

I am not going to read all the names, but they will be printed in the RECORD. The children in that incident, 4 years old, 11 years old, 11 years old, 6 months old fire-hosed out of the arms of her mother, 2 years old, 3 years old, 10 years old, 4 years old, 3 years old, 11 years old, 2 years old—that is the age of the children.

Let me close on a couple of points. Edmund Burke once said:

> All that is required for evil to succeed is for good men [and women] to do nothing.

Today we can do something. We can grant Elian Gonzalez and his family permanent residency status, which will send this case to the family court where Mr. Gonzalez can make his case without any Castro influence. We should have done it the day Elian got back, but we did not. We decided to make this a big political issue between the administration and Castro. So Castro starts whining, and suddenly this administration thinks the case has to be in INS's jurisdiction. We could not kowtow to a Communist dictator. What does Castro care about the interests of this little boy? I told you what he thinks of this little boy.

There are no parental rights in Cuba. The children are taken away into these training camps. They are taught all kinds of drills. They are taught how to take an AK–47 apart, blindfolded, at the age of 6.

Luis Fernandez, a Cuban diplomat, said as recently as yesterday:

> The boy [Elian] is a possession of the Cuban government.

Cuban children, my colleagues, do not belong to their parents, they belong to Fidel Castro.

Article 39 of the Cuban constitution—it would be nice if some of the 61 percent of the people who say this had the facts. It would be nice if the pollster gave them the facts before they answered the question. Article 39 of the Cuban constitution, adopted in 1976 and revised in 1992, declares:

> . . . the education of children and young people in the spirit of communism is the duty of all society.

Law No. 16 of the ''Children and Youth Code,'' adopted in 1978, says the state's goal is the creation of ''Communism's new generation'' and requires all adults to help mold a child's ''Communist personality.'' If the parents do not bring up the children to be good Communists, then the neighborhood spy will report them to the authorities and they will be taken away and ''reeducated.''

Talk to some of the Vietnamese who escaped Vietnam and ask them what a reeducation camp is. If anybody thinks little Elian Gonzalez will not be put under a severe and thorough Communist indoctrination when he goes back, then they are blind. He is going to suffer. He is going to pay—big time. For what? Surviving a near drowning, surviving a wreck on the open sea. That is why he is being punished, because his mother did not live.

She has rights, too, but we don't know about them. But somebody could represent her in a custody court and put her rights on the record. But not Janet Reno.

Let me give a little idea of what he is going to do some summer when he gets back. He is going to be in a ''voluntary'' labor or military drill camp. He will learn there is no religion but communism. He was put in a church a few days after he arrived. He had never been in a church before in his life. He didn't know what the inside of a church was.

He will learn that Fidel is God. He will learn the Communist Party is of more value than his father or anybody else in his family. He will be told his Miami relatives who cared for him and loved him, including his surrogate mother, Marielysis, are nothing more than traitors and worms and kidnappers. That is the language they use.

Marielysis Gonzalez, 21 years old, has been hospitalized off and on for the past 2 weeks because this little boy clings to her every day. He will not leave her alone. Every time somebody knocks on the door, every time somebody comes in the yard, every time the phone rings, he wonders if somebody is going to take him away. And he asks her: Marielysis, are they going to take me today?

How would you like to live like that? That is what Janet Reno has put this boy through for 4 months, and I am sick of it. I am not going to defend it. She has put him through it. It is her responsibility and the President's. These people have been vilified, these good people, these decent people in the Cuban-American community in Miami—good, decent people who have shown a lot of self-restraint, frankly, under the circumstances, but especially Lazaro and Marielysis and other members of that family who have taken such good care of this boy. All they care about is the best interests of the boy.

It is funny, I did not hear some of those people saying anything about the rule of law—these same people today who are saying, the rule of law says he must go back with his father. It is funny, though, those same people when their President, the Chief Executive of our country, was impeached for repeatedly breaking our law, not one of them had the courage to step out and say: He broke the law; he lied to me.

It just depends on whose law it is, doesn't it, and whose law you break. That is what matters.

I believe in the rule of law, but can you understand why they do not want

to send Elian back to a totalitarian state? I have talked to the family about this. They love Juan Gonzalez. He is a family member. There is no difficulty between these family members. The reason Mr. Gonzalez did not come here is that he could not come here. The reason Mr. Gonzalez can't defect is that he is afraid to defect because he knows what is going to happen to some of his family who are still back in Cuba. We are playing the game. We are just giving them all the cover.

''I spoke to Mr. Gonzalez, and he didn't indicate to me he wanted to defect.''

Do you remember learning about the Fugitive Slave Law of the 1840s and 1850s? It made northerners return escaped slaves back to their masters. Would anyone begrudge abolitionists who opposed that law?

Picture this: A little black child in 1840, Anywhere, U.S.A., in the South, picked up by his mother. His father says, ''No, get away, I'll cover for you.'' She takes the Underground Railroad and makes it to the North and is caught. She dies. Same logic—send him back to the father. Send him back to slavery.

This kid is going back to slavery. He is not going back to his father; he is going back to slavery. So all of you out there, all 61 percent, including many of my colleagues, when you watch him paraded around the streets of Havana as they teach him to become a pretty good little Communist, think about it. Think about how you might have stood up and prevented it.

In 1939, the U.S.S. *St. Louis* arrived from Germany with 937 refugees aboard. Do you know who they were? Jews fleeing from Hitler. The ship was denied entry because the law did not allow it. The refugees went back to Europe and Hitler and to their deaths. Was it right to uphold the law in that case?

The fact is, no law governs this case. Janet Reno is not telling you the truth. She has total discretion. There is no law that is dictating to her that she has to send this boy back. No law. Show it to me. Somebody come to the floor and read to me the law that says the Attorney General must return this boy. There is no such law. There is nothing in the law that says it. There is no age restriction. There is nothing. What it says is that she has discretion. So her discretion is to send him back, but do not tell me it is the law because it is not.

She made the wrong decision. With this simple bill, on which I have been trying to get a vote for a month, Senators can be on record as saying it is wrong to make this an immigration case. He has rights. He is only a 6-year-old boy, but he has rights. His mother had rights. Let's let the family sit down and talk about it without the Justice Department. Let them meet alone. If they cannot work it out, they can go to the Florida custody court and decide what is in the best interest of Elian. That is the way it should be.

Will evil succeed, as Mr. Burke said? That could be Elian. That could have been Elian and might still be Elian. My conscience is clear.

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## GAS TAXES

Mr. HATCH. Mr. President, yesterday, the Senate voted on a cloture motion to end debate on Senator LOTT's proposal to roll back the gasoline excise tax. Senator LOTT's bill is a sincere effort to address the hardships many Americans have been facing given the rising price of gasoline at the pump.

I commend the majority leader for this legislation. But, I do want to clarify my vote on the cloture motion.

I voted for cloture because I believe the majority leader, of all people, deserved an up-or-down vote on the proposal. I also believed that, if we were going to vote to cut or maintain the current gasoline tax, we ought not to confuse the American people about where we stood by deciding this issue on a procedural vote.

Unfortunately, because cloture was not invoked, and there may not be a vote up-or-down on the proposal itself, it seems that Utahns are indeed confused about where I stand on this issue. As it frequently happens, the vote on the procedural motion becomes a proxy for how a senator would have voted on the bill. However, that assumption does not hold true for me in the case of this gas tax proposal. I would have reluctantly voted against it.

While I respect Senator LOTT for his effort at providing relief for truckers, farmers, landscapers, salesmen, and everyone else who depends on his or her vehicle, I have an equal concern for the quality of the highways they drive on.

It is unclear to me that the loss of revenue that would have resulted from passing this legislation could have been immediately made up from other programs, thus necessary highway construction and repair projects in Utah and around the nation could have been delayed.

Moreover, I believe that there are other measures we can find should take to address the issue of high gas prices. In the long-term, we should encourage development of alternative fuels vehicles. Toward this end, Senator JEFFORDS and I will be introducing legislation later this month that will provide strong tax incentives for the development and purchase of such vehicles, along with the alternative fuel they use.

I also believe that there are other tax relief initiatives that will have greater positive impact for American families, and I will continue to press hard for these proposals.

Mrs. FEINSTEIN. Mr. President, yesterday, I spoke on S. 2285. I now ask unanimous consent that an ARCO letter concerning gas prices be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ARCO,
*Los Angeles, CA, April 5, 2000.*

Hon. DIANNE FEINSTEIN,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR FEINSTEIN: Thank you for your phone call on Friday, March 31, regarding gasoline prices in California. During that conversation, you inquired regarding the status of ARCO's gasoline inventory. I have outlined below some statistics that were not available to me when we talked.

Currently, ARCO's inventory of CARB gasoline is at our operating target. Total industry gasoline inventories on the West Coast appear to be recovering. The last weekly West Coast gasoline inventory report showed an increase of 1.5 million barrels over the previous week, which was the low point of the year.

With respect to the issue of gasoline prices, no one can predict the future. However, crude oil prices have been coming down over the last few weeks as a result of the recent OPEC meeting. Spot prices also appear to have peaked. Barring some unforeseen circumstances, we can assume that retail gasoline prices will follow suit.

I hope you find this information helpful.

Sincerely,

MIKE BOWLIN,
*Chairman and*
*Chief Executive Officer.*

Mr. GORTON. Mr. President, American consumers are feeling the impact of high oil prices. Obviously, the increase is noticeable at the gas pump, but it also is being felt in less visible ways through increases in the cost of goods and services as airline prices and shipping costs escalate. I have stated, in no uncertain terms, that I consider responsibility for the current situation largely to lie at the feet of the Clinton-Gore Administration. Thanks to nearly eight years of their short-sighted policies, we are increasingly dependent on foreign oil. To make matters worse, not only does the Clinton-Gore Administration not have any clear plan to reduce our dependence on foreign oil, they actually appear to be moving in the opposite direction, seeming at every turn making it more difficult to develop domestic energy sources, whether it be gasoline, petroleum products, coal, oil, or hydropower.

As it is largely through the bungling efforts of the current Administration that we are in this situation, I believe it is appropriate that the U.S. Senate counterbalance their efforts with some modest relief. A suspension of the 4.3-cent federal fuel excise tax, imposed in the early days of the Clinton Gore administration, should provide the short term relief consumers deserve.

As Congress addresses these issues, however, we must seek a solution that not only attacks this problem from the perspective of energy supply, but also energy use. A key aspect of any debate on this subject must focus on motor vehicle fuel consumption. The United States currently uses about 17 million barrels of oil per day to run cars and trucks. Thanks to the existence of Corporate Average Fuel Economy, or CAFE, standards, three million barrels of oil are conserved each day. Despite the clear success of CAFE standards,

however, Congress has prevented the National Highway Traffic Safety Administration (NHTSA) from even considering whether we can do better, particularly in relation to the fuel efficiency standards of lights trucks, which haven't been significantly increased in ten years.

Many constituents and colleagues are often surprised to learn of my advocacy for CAFE standards. My motivation is simple, and is based on the success of the original CAFE statute. I feel that NHTSA should at least be allowed to study whether an additional increasing CAFE standards is an appropriate action. As you may know, light truck standards have not had a significant increase in the last ten years. Light trucks are regulated separately from cars and are only required to get 20.7 mpg on fleet average as opposed to 27.5 for cars. In 1983, the average fuel economy of light trucks was already 20.7 mpg. Since 1983 it has dropped .3 mpg to 20.4. This is hardly a technological breakthrough.

I am not swayed by doomsday predictions from automakers who claim they will be forced to manufacture fleets of subcompact cars. These are the same arguments that were used during the original debate in 1974. One only needs to examine the possible options available to consumers today to disprove this theory. When consumers can purchase SUVs as large as the Chevy Suburban or Ford Excursion, it is hard to argue that consumer choice has been compromised. I have complete faith in American automobile manufacturers that they can continue to produce fuel efficient vehicles that are the envy of the world.

Therefore, it was with great interest that I listened to Energy Secretary Bill Richardson testify before the Interior Subcommittee this morning on the Clinton Administration's multi-faceted plan to address high gasoline prices. This testimony focused on a lengthy discussion of the results of last month's diplomatic efforts. When pressed on the Administration's plan to decrease this country's dependence on foreign oil sources, Secretary Richardson went on to tout his proposals to improve alternative fuel options and fuel efficiency. He suggested tax incentives and credits for U.S. oil producers, fuel efficient vehicle production, and alternative fuel development. Unfortunately, there was no mention of CAFE standards.

In response to this omission, I had to ask why this Administration has failed to actively support new fuel efficiency standards. When I pressed Secretary Richardson to commit to making CAFE standards a centerpiece of the Clinton-Gore Administration's effort to address the current fuel shortage and long-term foreign oil dependency of this country, he ducked the question and told me he wished the EPA Administrator was available to answer.

I am perplexed by this response. Obviously, U.S. auto manufacturers have demonstrated they are more than up to the challenge of producing more fuel efficient light trucks and SUVs. In fact, Ford Motor Company just announced plans to start selling within three years a hybrid gas-and-electric-powered SUV that gets about 40 miles per gallon.

Therefore, I fail to understand why the Clinton-Gore Administration can't make simply studying a possible increase in CAFE standards a top priority in this debate. I challenge the White House to embrace this common sense approach, which is certainly preferable to the groveling diplomacy it engaged in just weeks ago.

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## ADOPTION OPPORTUNITIES ACT

Ms. LANDRIEU. Mr. President, I rise today to speak about the Adoption Opportunities Act which would amend the current adoption tax credit so it does what it was originally intended to do, and that is to help all kinds of families in their efforts to adopt all kinds of wonderful children.

I would like to begin my remarks this morning by introducing you and my colleagues to someone very special. This beautiful little girl's name is Serina Anglin. Serina was born, as you can see here, prematurely and severely addicted to drugs. Her mother was a 15-year-old girl who herself had been abandoned in a crack house by her drug-addicted mother.

At birth, doctors were all but certain Serena would not survive. When she was just a few months old, a neurologist described her in the following way:

> In summary, Serina is a severely manifold handicapped child whose significant defects are in social, adaptive, affective, and cognitive development.
>
> Serina has cerebral palsy as well as other multiple problems including crack cocaine prenatal addiction, history of herpes and encephalitis, and seizure disorders including epilepsy. . . . Her ability to walk is very uncertain. I think she will fall into the moderate to severe range of retardation.

However, through the grace of God, Serina came into the home of a wonderful couple, Hal and Patty Anglin, of Wisconsin, who are now her adoptive parents. I want to show you a current picture of Serina. Through their love and determination, Serina has not only survived but her progress has simply amazed medical experts.

Today, Serina is a remarkable child. She still has some small seizures, but her larger seizures are all but gone. She not only can walk, she recently learned to ride a bike. Each day she is becoming more and more active. She is true and living proof that the love of a family, growing up in a nurturing environment, can make what was deemed impossible possible.

This is not to say this miracle came easily. In the beginning, Serina's care required that she go to the doctor over 16 times a month. For the first year of her life, her adoptive mother, Patty, carried her in a tummy sack to simulate the safety and warmth she had been deprived in the womb. She had to be taught how to breathe and swallow. She has had several surgeries on her leg which was damaged as a result of prenatal drug exposure.

I tell this story today because I cannot think of a better way to show my colleagues why the current tax credit needs to be changed. Serina was born to a mother who was a ward of the State. So upon her birth, she was immediately placed in foster care, as I explained. As such, when the Anglins, who were her foster care parents, went through the formal adoption process, the process of adoption cost them almost nothing.

Therefore, under our current definition of qualified adoption expenses, they were not eligible to receive one single dime of the $5,000 tax credit that is supposedly available under current law. Had Serina, this beautiful little girl, been a healthy infant voluntarily given up and adopted privately or through one of our many able agencies, the Anglins would have been eligible to claim the $5,000 tax credit. I am sure my colleagues will agree this was not our intention when we passed the adoption tax credit.

In the case of children in foster care with special needs, what gives many parents pause is that everyday care of these children can be both physically and financially draining. I cannot tell you how many foster parents tell me the only thing standing in the way of their formally adopting foster care children is the worry that their personal resources will be inadequate to properly care for them. Through a properly drafted and funded adoption tax credit, we can be the partners with these prospective parents whose hearts are ready to take on this responsibility.

It is a small step in the right direction but a very important step. A tax credit for special needs children logically should assist parents, such as the Anglins, with the everyday long-term costs of raising a child with special needs and should not be limited to the expenses of the ''act of adoption'' itself. The current definition is limited to ''qualified adoption expenses.'' That is too narrow to reach children such as Serina who need our help the most.

The Adoption Opportunities Act, which we introduce today, proposes to fix this dilemma. It allows a straightforward $10,000 tax credit for families who adopt a child with special needs. The new tax credit for special needs children will not require the parents to submit verification of their expenses, nor will the amount be dependent upon the cost of adoption itself.

I know many of us have argued for years about simplifying the Tax Code. I am hard pressed to imagine a way that would be more simple than the one Senator CRAIG and I are proposing, for all a parent has to do is simply attach a certificate of adoption for any special needs child to their tax return and they will get, under this bill, a $10,000

credit that can be carried forward for 5 years. It is that simple.

Another problem lies in the fact that the current tax credit for nonspecial needs children is due to sunset in December of 2001. Hoping to ensure the credit was well designed and necessary, the drafters of the original bill agreed to reevaluate it after 5 years. We have done that and have included that in our bill. It permanently extends the $5,000 tax credit for adoption and almost doubles the adoption tax credit for special needs.

Because of this assistance, many families, who might not otherwise have been financially able to do so, have been able to build a family through adoption. Last week, in fact, I had the great honor of attending a ceremony when 17 children from 14 different countries became citizens of the United States. All of these children were brought here to be adopted into loving and wonderful homes of Americans from all parts of our country.

At that gathering, one of the mothers who had adopted two children came up to me and said: Senator, please let them know in Congress how much we appreciate the adoption tax credit. It made all the difference to me and my husband as we decided to adopt our second child.

So we know that tax credit works. We know it has a positive impact, and part of our bill today extends that permanently so families can count on it.

With the cost of adoption still on the rise, this tax credit is an important factor, as I have mentioned. It has been estimated that adoptions can range anywhere from $10,000 to $20,000, whether done privately or through an agency domestically or internationally.

Another figure to keep in mind is one that was released recently by a national adoptive parent organization. They estimate that using specialized foster or adoptive parents instead of what we do now, which is congregate care facilities for drug-exposed children, could save—and I believe the Senator from Texas, Mr. GRAMM, will be interested in this as he continues to fight for ways the Federal Government can save our money—they estimate we can save as much as $550 million a year by relying on adoptive parents instead of keeping many of these children in the ''system,'' for which the taxpayers pay. Anything we can do to encourage adoption will not only be the right thing, the moral thing, the wonderful thing, and the family values thing to do, but it is smart for the taxpayers of the United States.

In addition, in case people are interested, there are more than 100,000 children in this country today waiting to be adopted—children who have had termination with their biological parents. They are waiting for someone to claim them as their own and to be adopted. There are 550,000 children in foster care. About 450,000 of those are in the process of either being returned to their families or they, too, can be eligible for adoption. Clearly, there is a need to promote adoption in this country that works for the benefit of birth parents, adoptive parents, and the children.

Finally, for parents to raise a child in their home, the estimates for a middle-class family are about $140,000. That is not including college tuition or vocational education. That is just an estimate. The least we can do is help in a small way with a $5,000 or $10,000 tax credit to encourage families to be their partner in this adoption effort.

I believe not only does it simplify the Tax Code, but there is a great need, and the need has been demonstrated. The results have been terrific. We have had testimony after testimony about how important the current system has been, so anything we can do to improve it I am sure will be welcomed by so many. It is a step in the right direction.

I close by saying, as we debate which tax credits to pursue, which are worthy, this adoption tax credit should be on the top of every list. We need to continue to be bold enough to take these steps because every time we do, children such as Serina, for whom people have given up hope, have found families on which to rely and with whom to grow.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Texas.

Mr. GRAMM. I commend our colleague from Louisiana. Today we have 130 million people who work outside the home and earn income. We have some 260 million Americans. About 30 million of them get some form of public assistance. You might ask yourself: Who takes care of the other 100 million Americans? They are taken care of by families. And the driving force is love.

So not only is the distinguished Senator from Louisiana talking about saving money, but what adoptive parents will add to the equation is love and care. The whole world benefits from it. So I commend her.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I, too, thank the Senator from Louisiana for her leadership on this issue. We are fortunate enough to work together on this marvelous issue of adoption, chairing the adoption coalition here on the Senate side.

Both Senator LANDRIEU and I this week have helped host two delightful young ladies who are on the hill, Miss USA and Miss Teen USA, both adopted, both coming from adoptive families. They were in my office this morning speaking about the wonderful families they were allowed to be a part of who have granted them all of this charm and talent that can only come from a loving environment, that has allowed them to become national leaders, as they now are, as Miss USA and Miss Teen USA.

I say thank you to the Senator for her leadership on this issue. It is critically important to America and America's families.

## PROJECT EXILE: THE SAFE STREETS AND NEIGHBORHOODS ACT OF 2000

Mr. SANTORUM. Mr. President, today, I rise in support of S. 2390, ''Project Exile: The Safe Streets and Neighborhoods Act of 2000'', which establishes a grant program to provide incentives for states to enact mandatory minimum sentences for certain firearms offenses. I commend Senator DEWINE for his leadership and appreciate the opportunity to join with him and other colleagues working together on this important legislation. The time has come to restore our commitment to aggressively prosecuting gun crimes around this country. In states and cities around the country where aggressive prosecution of gun crimes is coupled with tough prison sentences, violent crime has gone down. Tough law enforcement saves lives.

This legislation provides $100 million of additional resources over five years as incentives for efforts like Project Exile. To qualify for the grant program, states must have a mandatory minimum of 5 years without parole for convictions of violent crimes and serious drug trafficking offenses where a firearm is used during or in relation to the crime. In the alternative, the state can have a federal prosecution agreement which would refer those arrested for federal prosecution of the alleged gun crime in a collaborative effort between law enforcement.

Project Exile started in Richmond, Virginia as an attempt to reduce violent crime by aggressive enforcement of gun laws and improved law enforcement coordination. Since the program began in 1997, violent crimes involving handguns have decreased 65 percent and overall crime has been reduced by 35 percent. 385 guns were taken off of the street. In 1999, Project Exile was adopted statewide in Virginia. It has given prosecutors the ability to choose within which courts they will try offenders and created tougher penalties for people committing crimes with guns.

I have also worked to help expand this approach to Philadelphia in 1999, where ''Operation Cease Fire'' also adopts a zero tolerance policy for federal gun crimes. Project Exile has already proven that present laws can work if enforced properly. Federal, state, and local law enforcement and prosecutors work side by side to expedite prosecution of every federal firearms violation. In 1999, over 200 federal gun-related indictments were issued in Philadelphia and the surrounding counties. This is a 70 percent increase in indictments in only one year.

The bill authorizes $10 million in Fiscal Year (FY) 2001, $15 million in FY02, $20 million in FY03, $25 million in FY04, and $30 million in FY05. States must provide at least a 10 percent match and must also at least maintain current funding levels to qualify. Funds can be used for public awareness campaigns, law enforcement agencies,

prosecutors, courts, probation and correctional officers, case management, coordination of criminal history records, and the juvenile justice system. Representative BILL MCCOLLUM introduced similar legislation in the House of Representatives as H.R. 4051. This legislation passed the House yesterday by a 358–60 vote margin.

Mr. President, I urge my colleagues to support this important initiative to collaborate with local efforts to prosecute and prevent the criminal use of guns in our schools and neighborhoods.

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## RAPE AND SEXUAL TORTURE IN SIERRA LEONE

Mrs. FEINSTEIN. Mr. President, in all too many places and in all too many conflicts in recent years we have witnessed the use of rape and sexual torture as instruments of war. I am sad to say, some incidence of rape has always accompanied war and turmoil in human history, but the record of the past few years, with the use of organized, systematic campaigns of rape to terrorize civilian populations, suggests a new chapter in the barbarity of human history has been opened.

It was disturbing to learn there are serious and credible allegations that rebel forces used systematic rape as an instrument of terror in the eight-year civil war in Sierra Leone.

While statistics are not yet available, there is clear and credible evidence that thousands of girls and women, ranging from ages 5 to 75, were abducted during the civil war and gang raped. Many were used as sex slaves and forced labor. And it is possible many are still being held captive, subject to the depravations of their inhuman captors.

This horrific story was detailed in an article in yesterday's Washington Post. I ask unanimous consent to have the article, entitled ''A War Against Women'' from the April 11, 2000, Washington Post printed in the CONGRESSIONAL RECORD following my remarks.

The civilized world must send a strong, unambiguous message that rape and sexual torture are not acceptable under any circumstances and will not be tolerated. The United States must be at the forefront of efforts to help the Government of Sierra Leone bring to justice those responsible for the systematic rape and sexual torture that took place during the civil war.

[From the Washington Post, Apr. 11, 2000]

### A WAR AGAINST WOMEN—SIERRA LEONE REBELS PRACTICED SYSTEMATIC SEXUAL TERROR

(By Douglas Farah)

BLAMA CAMP, SIERRA LEONE—The women slip one at a time into a bamboo hut in this displaced persons camp, and most begin to cry quietly as they tell of being gang-raped and held as sex slaves by rebels who had sought to overthrow the government of Sierra Leone.

One 25-year-old woman said she had delivered a still-born baby the day before rebels of the Revolutionary United Front attacked her village in 1998. She was unable to flee with most of the other villagers, and five rebels took turns raping her, she said. When her husband tried to intervene, they killed him.

''I thought at first I was dealing with human beings, so I said I was sad and confused because I had just delivered a dead baby, I was bloody and weak,'' she said between sobs. ''But they were not human beings. After they left I gave up, and I wanted to die. I had no reason to live anymore.''

Human rights workers says the woman, who was rescued by a patrol of government troops, is one of thousands who were raped by insurgent forces and other armed gangs during the nation's eight-year civil war. While statistics are not yet available, rights workers said the rebels' rape campaign was as widespread and systematic as similar assaults in the 1992–1995 Bosnian war but has received far less attention.

Unlike at least some of the perpetrators in Bosnia, those responsible here likely will never be tried because of a blanket amnesty that was part of the accord that ended the conflict last July. Even more worrisome, U.N. officials and government officials say, is that the rebels may still hold thousands of women in remote strongholds despite the fact that the peace accord required them to free all captive civilians.

''The [rebels] perpetrated systematic, organized and widespread sexual violence against girls and women,'' the New York-based group Human Rights Watch said in a recent report. ''The rebels planned and launched operations in which they rounded up girls and women, brought them to rebel command centers and then subjected them to individual and gang rape. Young girls under 17, and particularly those deemed to be virgins were specifically targeted. While some were released or managed to escape, hundreds continue to be held in sexual slavery after being 'married' to rebel combatants.''

Rose Luz, a physician with the International Rescue Committee, said that what is most shocking about the hundreds of rape cases she is documenting is the ages of the victims. Most were under 14 or over 45—many of whom were too slow or too infirm to flee. Luz said the youngest victim documented so far was 5; the oldest was 75.

''It is the ones who could not get away,'' Luz said. ''They raped whomever they stumbled across.''

With the consent of the women involved, Rescue Committee officials arranged for a reporter to be present during some interviews. It was agreed that no names would be used or photographs taken. The interviews were conducted at this camp—about 160 miles southeast of the capital, Freetown—which shelters 22,500 people who were driven from their homes in eastern Sierra Leone by insurgent forces.

If the rebels considered a woman attractive or physically fit enough to work, she would likely be taken along with them—not just to be a sex slave, but a domestic servant as well, Luz and other aid workers said. Often, they said, a captive woman would try to attach herself to one leader to avoid repeated gang rape. In a culture in which rape victims are often ostracized, such wholesale assaults were effective not only in spreading terror, but in breaking apart communities, social workers said.

The first victims began telling their stories to the Rescue Committee when the aid group started reproductive health classes here several months ago, said counselor Dolly Williams. Last month, in an effort to refer the women for urgently needed medical attention and help them cope with their shame and humiliation, the Rescue Committee began documenting their stories. As word of the program spread, hundreds of women have come forward, waiting their turn patiently while Williams and Luz record the accounts of other victims.

''Child and women abductees and victims of gender violence are far too numerous, and we do not yet even have a clear picture as to how many there really are,'' said U.S. Ambassador Joseph H. Melrose Jr., who is trying to arrange for U.S. funds to help the victims. ''What is clear is that these victims and their injuries, both physical and psychological, must not be ignored. If these injuries do not heal, they will have implications for future generations of Sierra Leoneans and the success of the peace process.''

Williams said the rate of sexually transmitted diseases such as syphilis and gonorrhea among the women is extremely high, a reflection of the 92 percent infection rate found among demobilized rebels. Neither the combatants nor the women are tested for AIDS or HIV infection because the cost is too great and there are no resources to treat anyone who tests positive.

The first woman to arrive at the palm-thatched interview room one day last week was a 60-year-old who came to tell how she was grabbed in her village by a group of raiders because she was unable to outrun them. When they could not find any other women, she said, they raped her.

''I begged them not to,'' she said. I told them I was old. I could be their grandmother,'' but they did not listen; they just laughed at me. Afterward they let me go because I was old and useless. Now I have pain when I urinate. I have sores; I can't sleep.''

A 35-year-old woman said she had been abducted and raped by four rebels in 1997. When they had finished, she said, they took her to their commander, who decided to keep her. She finally escaped three years later, during a firefight between the rebel unit and government troops.

''I can't have a man again,'' she told the interviewer. ''I have lost my life.''

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## CASH BALANCE PENSION PLANS

Mr. KENNEDY. Mr. President, I join Senators JEFFORDS, HARKIN and ROCKEFELLER in calling on the Senate to strengthen our Nation's pension laws. This amendment reaffirms the value of defined benefit pension plans for workers, and our commitment to protecting workers from age discrimination in the provision of pension benefits.

Too many American workers have discovered that the pension promises made to them by their employers are virtually worthless. It is disturbing in this period of unprecedented economic prosperity and rising profits that major corporations are shortchanging their older and longer serving workers. These companies have changed the rules unfairly, by converting traditional defined benefit pension plans to so-called ''cash balance'' plans.

Companies have made these conversions quietly, without informing workers of the impact of the changes on their retirement security. When workers ask for an explanation, all too often they are given devious responses. Some employers have done the right thing and allowed older and longer service workers to remain covered under the original plan, but other employers have not.

In addition, many cash balance plans deny benefits to older workers for a period of time after the conversion, using

a discriminatory practice known as ''wear away.'' This practice prevents older and longer service workers from earning new benefits under the cash-balance plan until that benefit exceeds the original promised benefit. We must end the practice of wear away immediately.

Our amendment calls on Congress to enact legislation this year requiring, at a minimum, that employers provide workers with adequate notice of a change in their pension plan that reduces future benefits. It also prohibits the discriminatory practice of wear away. Our amendment makes clear that Congress will take whatever action is necessary to assure older workers that they will not be short-changed when it comes to their retirement security. It is long past time for Congress to act and protect our older and longer service workers. We value older workers in America—we don't ''wear them away.''

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## GUN VIOLENCE

Mr. HUTCHINSON. Mr. President, I rise today in support of S. 2390 which Senator DEWINE introduced yesterday. I am proud to be an original cosponsor of this legislation. I know that, unlike additional infringements on the constitutional rights of law-abiding Americans, this bill will effectively reduce gun violence and save lives.

Like many of my colleagues, I am extremely concerned about gun violence. In my home state of Arkansas, there are several cities which have long been plagued by extraordinarily high levels of violence and murder, largely fueled by illegal guns, gangs, and drug trafficking. According to the 1998 Uniform Crime Reports, Little Rock, with a population of 176,377, North Little Rock with a population of 60,619, and Pine Bluff, with a population of 54,062, had 25, 8, and 17 murders respectively. The rate of murder per 100,000 inhabitants in North Little Rock-Little Rock was 10.3 and it was 33.8 in Pine Bluff and significantly exceeded the national rate of 6.3 murders per 100,000 inhabitants. Nonetheless, I have received literally thousands of letters from Arkansas asking me not to support additional gun control measures, but rather to simply enforce the laws already in effect.

My constituents are right. We do not need more gun laws. We just need to enforce those already on the books. The facts show that the Clinton Administration has not done this; from 1992 to 1998 prosecutions of defendants who use a firearm in connection with a felony have decreased nearly 50 percent, from 7,045 to approximately 3,800. In addition, while more than 500,000 convicted felons and other prohibited purchasers have been prevented from purchasing firearms from federally, licensed firearms dealers under the Brady Handgun Violence Prevent Act, only 200 of these persons have been referred to the United States Department of Justice for prosecution. I have carefully studied the Project Exile program in Richmond, Virginia and am convinced that it saves lives. Before Project Exile was implemented, Richmond was one of the nation's murder capitals, and Project Exile resulted in a 40 percent reduction in the number of murders committed with firearms. That is why for the past several months, I have been working to implement Arkansas Exile. By supporting S. 2390, I hope to obtain the additional funding necessary to allow Arkansas and other states to implement a program proven to reduce gun violence.

Finally, I support S. 2390 because it is the right approach. The President and many of my Senate colleagues condemn firearms, which are inanimate objects, and the gun industry while ignoring and working to overturn the well-established legal principle and a third-party's criminal act is an unforeseeable event for which a merchant may not be held liable. I am saddened and alarmed that the President and cities throughout the nation are using the vast resources for their governments to force the gun industry to take responsibility for the acts of criminals, and I am determined to do all I can do that the criminals, not the gun industry and law-abiding Americans, are held responsible for gun violence.

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## WRONGFUL IMPRISONMENT OF 13 IRANIAN JEWS

Mr. ASHCROFT. Mr. President, I rise today to speak on behalf of the thirteen Iranian Jews wrongfully imprisoned and facing trial in Iran. I join with concerned people of all faiths around the nation, and the world, in calling for the observation of fundamental human rights and the ultimate goal of freedom for these innocent people.

Iran has recently taken some positive steps away from political and religious repression toward the acceptance of freedom, justice, and democracy. Reforms, however, have been marred by a disheartening lack of concern for the human rights of religious minorities in Iran. Throughout my life, I have been committed to furthering fundamental human rights, especially religious freedom, for both Americans and people throughout the world. Therefore, I was deeply concerned by the February 1999 arrest of thirteen Iranian Jews informally accused of spying for Israel and the United States. Today, ten of the thirteen are still in jail awaiting trial, while the other three have been released on bail. This situation is especially troubling because these innocent community and religious leaders could face the death penalty if convicted.

Mr. President, this entire legal ordeal has been filled with Iranian Constitutional violations and shrouded in secrecy. For instance, the thirteen have never been formally charged or indicted. This should be the first step in any legal proceeding, but it now appears almost certain the defendants will not know the charges they face until the trial begins. As a former Attorney General of Missouri, I fully appreciate what a daunting, if not impossible, task it would be to build a credible defense without knowing the charges.

Additionally, although it appears the Iranian government might have recently reversed its previous position and agreed to allow the thirteen to choose their own legal counsel, the judge in the case has refused access to the defendants by their chosen attorneys. Beyond the seriously limiting results of this decision, the chosen attorneys cannot officially become the defendant's counsel until the necessary legal documents are signed, which will not occur until the attorneys and defendants meet. The courts have created one of the worst ''Catch-22s'' I have seen.

It also troubles me that the trial will be conducted in secrecy. After repeated requests by international observers and the press, the decision to keep the trial secret has been affirmed by the courts. For these obvious reasons, I believe it likely that the thirteen will not receive a fair and impartial trial.

The members of the Jewish Iranian community, who out of respect and fear of the Islamic majority rarely speak out in public, have even made an uncharacteristic plea to the Iranian government. I join with this community in asking for all defendants in Iran, regardless of religion or standing, to have access to legal counsel of their own choosing, and to be afforded the requirements of Iranian law for fair and open trials. In addition, I urge the Iranian government to grant permission for the ten jailed Iranian Jewish defendants to go home on furlough for Passover, which begins on the evening of April 19th, if the proceedings have not yet been completed.

Mr. President, I rise today in support of the basic principles of human rights and religious freedom. The Iranian government must do the right thing and provide these defendants their fundamental rights, and the International Community must use all available pressure and diplomatic avenues to influence them to do so. And the United States Government should demonstrate real leadership by diligently working to see the ultimate release of these thirteen Jewish Iranian defendants.

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## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 11, 2000, the Federal debt stood at $5,763,650,722,859.87 (Five trillion, seven hundred sixty-three billion, six hundred fifty million, seven hundred twenty-two thousand, eight hundred fifty-nine dollars and eighty-seven cents).

Five years ago, April 11, 1995, the Federal debt stood at $4,871,386,000,000

(Four trillion, eight hundred seventy-one billion, three hundred eighty-six million).

Ten years ago, April 11, 1990, the Federal debt stood at $3,084,969,000,000 (Three trillion, eighty-four billion, nine hundred sixty-nine million).

Fifteen years ago, April 11, 1985, the Federal debt stood at $1,730,073,000,000 (One trillion, seven hundred thirty billion, seventy-three million).

Twenty-five years ago, April 11, 1975, the Federal debt stood at $511,156,000,000 (Five hundred eleven billion, one hundred fifty-six million) which reflects a debt increase of more than $5 trillion—$5,252,494,722,859.87 (Five trillion, two hundred fifty-two billion, four hundred ninety-four million, seven hundred twenty-two thousand, eight hundred fifty-nine dollars and eighty-seven cents) during the past 25 years.

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## ADDITIONAL STATEMENTS

### COMMEMORATION OF 30TH ANNIVERSARY OF THE COUNSELING CENTER OF MILWAUKEE, INC.

● Mr. KOHL. Mr. President, I rise today to commend an organization that has provided high quality mental health, residential, case management, prevention, treatment and outreach services to adults, youth and families in the Greater Milwaukee area for thirty years. This organization is the Counseling Center of Milwaukee, Inc.

The Counseling Center of Milwaukee came from humble beginnings. Established in 1970 in the basement of Milwaukee's St. Mary's Hospital, it merged with the organization Pathfinders for Runaways in 1971. The Center has since grown into a $2.3 million agency with 100 paid and volunteer staff.

In working to fulfill its vision statement of putting more people in charge of their lives, connecting to others and contributing to their communities, the Counseling Center of Milwaukee provides both individual and family services including education, counseling, providing emergency shelter and mentoring.

The Counseling Center serves a variety of clients, most of whom are low income and most from the city of Milwaukee. The Counseling Center has always been a place where clients could turn when they had nowhere else to go. Through public and private funding, the Counseling Center provides service to anyone in need, regardless of their ability to pay. This includes more than 7,000 citizens in the Greater Milwaukee area served in 1999.

I am proud to join in celebrating the 30th anniversary of the Counseling Center of Milwaukee. I thank the dedicated employees and volunteers of the Center for their significant contributions to the mental health of the citizens of my state, and wish them a prosperous future.●

### NATIONAL LIBRARY WEEK

● Mr. GRAMS. Mr. President, I rise today to recognize National Library Week and pay tribute to those dedicated individuals who, through their passion for books and learning, make our libraries places of great discovery.

If a child wants to know everything there is to know about space, you could send them up there in a rocket ship. If they're interested in tornadoes, you could send them out after one with a crew of storm chasers. If they'd like to meet George Washington, you could even send them back in time. You could—if you just knew how.

Or, you could send them to the library instead.

National Library Week is April 9–15, and there's no better place than our libraries for bringing the world and the events that shape it—past and present—to life. Fortunately, a child doesn't need any special gadgets to experience all the library has to offer; they just need a library card.

As Congress debates important issues like the federal budget and how to save Social Security, the library is also an excellent place for young people to learn more about government and what's happening in Washington. And of course, the librarians are always there to help.

On the occasion of National Library Week, I urge all Americans to check out a book—and ''check out'' all the riches their local library has to offer.●

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### NATIONAL VOLUNTEER WEEK

● Mr. GRAMS. Mr. President, boxer Muhammad Ali once said, ''Service to others is the rent you pay for your room here on earth.'' Minnesota's volunteers exemplify that philosophy, and during National Volunteer Week, April 9–15, we celebrate their passion for their communities.

National Volunteer Week offers an opportunity to salute the millions of dedicated men, women, and young people for their efforts and their commitment to serve. Volunteers are one of this nation's most valuable resources, making this year's Volunteer Week theme—''Celebrate Volunteers!''—very appropriate.

Minnesotans can be proud that our state has one of the highest rates of volunteerism in the nation. While 56 percent of Americans volunteer nationally, two-thirds of all Minnesotans give back to their communities through volunteering. According to state officials, this show of strength returns $6.5 billion a year in donated hours to Minnesota communities.

Thanks to the many Minnesota volunteers who help make our communities better, more compassionate places to live. For those who have yet to discover the joy that comes from serving others, I invite them to get involved—and remember the words of Henry David Thoreau: ''One is not born into the world to do everything but to do something.'' Volunteering is truly your opportunity to do something.●

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### IN MEMORY OF LEE PETTY

● Mr. HOLLINGS. Mr. President, I rise today to remember auto racing's Lee Petty, who died last week at the age of 86. A pioneer of the sport, he claimed 55 titles, including the inaugural Daytona 500 in 1959, before a 1961 collision ended his competitive career. His son Richard carried the torch with style, collecting seven Winston Cup trophies and establishing a fan base Lee Petty could have only dreamed of back in the late 1940s when he was scorching North Carolina dirt tracks. But it doesn't end there. Lee's grandson, Kyle, a good friend of mine, continues to find success on the NASCAR circuit and Lee's 17-year-old great-grandson, Adam, recently made his NASCAR debut.

The name Petty has become synonymous with racing, and for good reason. Lee Petty had the foresight to invest in a sport with little pedigree but a heaping portion of American guts and glory. He understood that a driver's personality was often as powerful as the car he drove, and spectators would pay good money to go along for the ride. His empire, Petty Enterprises, bears witness to the clarity of that vision, having produced 271 race winners and 10 NASCAR champions.

Despite great success, Lee Petty never acted like a superstar. He lived with his wife, Elizabeth, in the same modest house where they had raised their children. Perhaps humbleness, and a willingness to brave the hot sun for hours to sign autographs, will prove to be Lee Petty's greatest contribution to American sports. An editorial in Charleston, SC's daily newspaper, the Post and Courier, concludes: ''In a day where money seems to be the overriding concern of so many athletes, Lee Petty was a reminder of what is important in the sporting world—and why folks gravitate toward the National Association for Stock Car Auto Racing. Lee Petty's grown-up NASCAR has never forgotten that a professional sport should be family- and fan-oriented.'' The patriarch of one of professional sports' most celebrated families, Lee Petty has left a legacy that will linger over American racetracks for generations to come.●

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### COMMENTS ON VIETNAM

● Mr. HOLLINGS. Mr. President, we have all read a lot on Vietnam, but nothing more thoughtful than the brief comments by Charleston, S.C.'s Charles T. ''Bud'' Ferillo, Jr. in the College of Charleston magazine, ''The Cistern.'' Mr. Ferillo, a 1972 graduate of the college, served in Vietnam. I ask that his comments be printed in the RECORD.

The comments follow:

PERSPECTIVES

(By Charles T. (Bud) Ferillo, Jr.)

Well before I was drafted, I viewed America's involvement in Vietnam a political

mistake at home, a foreign policy of misjudgment in Southeast Asia and a personal tragedy for the tens of thousands of Vietnamese and Americans who paid the price for the misadventure.

I had lost my college deferment in 1966 and received my ''Greetings from the President of the United States'' draft letter in early 1967. I decided to do my best and serve even though I thought our policies in Vietnam were wrong. A lot of awful experiences in the war would follow that decision but not one day of regret.

In Vietnam you joined your unit one soldier at a time, not in groups that trained together back home or from old time group enlistments. My unit was Company C, 1st Battalion, 22nd Infantry, 4th Infantry Division. That night in July 1968 when I joined Charlie Company as an incoming sergeant E–5, I was ordered to take out a night patrol. I was exhausted from days of travel and processing but I didn't sleep a wink all night, and never solidly for the rest of the year I was there.

Three days later, on patrol in a cornfield, my radio operator who was walking just behind me was shot through the neck by a sniper. I later lost another radio operator who was shot while clinging perilously to rungs of a hastily departing helicopter. If he had been able to survive his wounds, he would never have survived the fall from the chopper into the trees below. We found his body three days later.

Discipline was strongly enforced in our division. No intentional killing of civilians or torture of POWs was tolerated. After several reprimands I had one soldier in my company court-martialed for cutting off the ears of dead North Vietnamese soldiers and mailing them home to his girlfriend.

The final tragedy for me was that the man I recommended to succeed me as squad leader in Charlie Company was killed as he walked in the squad leader position in the field the day after I left for home. It is his name I look for first on the wall in Washington when I visit it.

There were some light moments, too. I was able to keep a pet monkey in my bunker for several weeks until he learned to pull the pins on hand grenades and kick them off the mountainside to explode below.

My war experiences only served to support my initial doubts about our involvement. Once when a convoy of U.S. Army and South Vietnamese Army units that I was traveling with on Highway 1 was ambushed by NVA regulars, we American soldiers jumped off our trucks facing the enemy and returned fire. The South Vietnamese soldiers jumped off the other side of the trucks and ate lunch. Whose war was it?

I recall numerous incidents when U.S. Army officers instructed us to count each body part from a NVA soldier as one casualty so as to swell the total body count reported. Similarly, we noted that some known U.S. casualties were listed long after the deaths in Stars and Stripes, the weekly military newspaper. These small deceits, multiplied across the country and if practiced widely, could have contributed to an inaccurate picture of battlefield situations. And it would have been done purposefully.

What would I want future generations to know about the nation's experience in Vietnam?

First, that governments of men can and do make huge mistakes. In understanding political situations in other cultures, in intelligence gathering and interpretation, and that an overzealous military can and will cover up their miscalculations of enemy strength, exaggerate U.S. military effectiveness and minimize cost projections and outcomes. Once committed, reversals of policy are slow in our system of government and often come too late for too many in harm's way.

Second, I would urge future generations to get informed and involved in public affairs as a matter of civic duty and personal interest to guard against poor political leadership that can get the country in deep trouble because of political ideology, showmanship or the pursuit of short-term partisan advantage over the national interest. Not only is eternal vigilance the price of liberty in Jefferson's phrase, but it is also the price of intelligent foreign policy and peace in the world.

Third, I would want those who look back at what happened in Vietnam to recall that it was not victories in combat by soldiers and airmen that got us out of there. No, it was not that at all. It was the courage and aggressiveness of people of all ages here at home who protested in the streets that finally turned the political tide in this country against the war. Their courage and tenacity forced a reversal of policy in Washington as time and events revealed military failures and unacceptable losses.

Finally, I would not want my children or anyone's children to ever know the details of what war looks like up close. It is very gruesome and terrifying for the safe and the wounded and all those who survive are burdened with the awfulness for their lifetimes. As time passes, the joy and fullness of life can repair the damage and soften its impact for those whose lives lead in healthy directions. For those who returned to dysfunctional families, lack of schooling, joblessness, illness, they are the walking wounded of Vietnam who cannot ever come home.

I would want my children to know that I tried to do my duty when my country called even when I disagreed deeply with the policies and conduct of the war in which we were engaged. I would want them to know I felt no regrets or ill feelings toward those who chose not to serve; those decisions of conscience required a certain kind of courage as well as any I saw in the war. Lastly, I would want my children to work for a country that is a more thoughtful, careful and respectful force in a world of divergent cultures, one that expends its resources in war only when our national security interests are genuinely at stake.●

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## MR. JACK WILCOX INDUCTED INTO PLYMOUTH HALL OF FAME

● Mr. ABRAHAM. Mr. President, on April 18, 2000, the Kiwanis Club of Plymouth, Michigan, with the assistance of the Plymouth Community Chamber of Commerce, the District Library, the Plymouth Historical Society, and the City of Plymouth, will honor three men whose commitment to the community has earned them a place in the Plymouth Hall of Fame. These men are being recognized because over the years their dedication and many efforts have played a large role in making Plymouth the wonderful town that it is today. With this having been said, I rise today in honor of Mr. James Jabara, Mr. James B. McKeon, and Mr. Jack Wilcox, who are rightfully taking their place among the ''Builders of Plymouth.''

A graduate of Plymouth High School and the University of Michigan, Mr. Wilcox is a retired U.S. Navy captain. He has served the community of Plymouth in many, and varied, ways. A semi-professional actor, he is a charter member of the Plymouth Theater Guild. He is a past president of the Plymouth Historical Society, as well as a lifetime member of this organization. He has served as City Commissioner, and helped to organize the Plymouth Council on Aging and the Plymouth Economic Development Corporation. Mr. Wilcox is a trustee of Riverside Cemetery, a member of the Munipal Tree Board, and a member of the Block Grant Citizen's Advisory Commission. In addition, Mr. Wilcox is the host of the local cable television show ''Profiles in Plymouth.''

Mr. President, I applaud Mr. Wilcox for his many efforts to better the quality of life for every resident of Plymouth, Michigan. His dedication to the town over the years is truly admirable, and I am glad that the Kiwanis Club has taken this opportunity to recognize his many contributions. On behalf of the entire United States Senate, I congratulate Mr. Wilcox on his induction into the Plymouth Hall of Fame.●

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## MR. JAMES B. McKEON INDUCTED INTO PLYMOUTH HALL OF FAME

● Mr. ABRAHAM. Mr. President, on April 18, 2000, the Kiwanis Club of Plymouth, Michigan, with the assistance of the Plymouth Community Chamber of Commerce, the District Library, the Plymouth Historical Society, and the City of Plymouth, will honor three men whose commitment to that community has earned them a place in the Plymouth Hall of Fame. These men are being recognized because over the years their dedication and many efforts have played a large role in making Plymouth the wonderful town that it is today. With this having been said, I rise today in honor of Mr. James Jabara, Mr. James B. McKeon, and Mr. Jack Wilcox, who are rightfully taking their place among the ''Builders of Plymouth.''

Mr. McKeon came to Plymouth after graduating from a school that I myself am quite familiar with, Michigan State University. He has served Plymouth both as City Commissioner and as Mayor. He has been president of the Plymouth Chamber of Commerce, and was named Volunteer of the Year by that organization. Mr. McKeon is chairman of the Downtown Development Authority, and sits on the Board of Directors of Growth Works and the New Morning School. In addition, he is a member of the Schoolcraft College Development Authority Board and a benefactor of the Plymouth Community Arts Council.

Mr. President, I applaud Mr. McKeon for his many efforts to better the quality of life for every resident of Plymouth, Michigan. His dedication to the town over the years is truly admirable, and I am glad that the Kiwanis Club has taken this opportunity to recognize his many contributions. On behalf of the entire United States Senate, I congratulate Mr. McKeon on his induction into the Plymouth Hall of Fame.●

## MR. JAMES JABARA INDUCTED INTO PLYMOUTH HALL OF FAME

● Mr. ABRAHAM. Mr. President, on April 18, 2000, the Kiwanis Club of Plymouth, Michigan, with the assistance of the Plymouth Community Chamber of Commerce, the District Library, the Plymouth Historical Society, and the City of Plymouth, will honor three men whose commitment to that community has earned them a place in the Plymouth Hall of Fame. These men are being recognized because over the years their dedication and many efforts have played a large role in making Plymouth the wonderful town that it is today. With this having been said, I rise today in honor of Mr. James Jabara, Mr. James B. McKeon, and Mr. Jack Wilcox, who are rightfully taking their place among the ''Builders of Plymouth.''

Mr. Jabara has been an outstanding leader in the Plymouth community since arriving there after his graduation from Michigan Technological University. He has served Plymouth as City Commissioner, Mayor, and Chairman of the 35th District Court Building. He is a board member of the Plymouth Chamber of Commerce, the Fall Festival and the Ice Festival. He is Chairman of the Advisory Board, sits on the Board of Directors of the Salvation Army, and is a member of the Plymouth Library Board. He is a charter member of the Colonial Kiwanis Club, and its first president. In addition, his many successful business ventures have contributed greatly to the growth and development of the Plymouth community.

Mr. President, I applaud Mr. Jabara for his many efforts to better the quality of life for every resident of Plymouth, Michigan. His dedication to the town over the years is truly admirable, and I am glad that the Kiwanis Club has taken this opportunity to recognize his many contributions. On behalf of the entire United States Senate, I congratulate Mr. Jabara on his induction into the Plymouth Hall of Fame.●

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## MESSAGES FROM THE HOUSE

At 11:21 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3767. An act to amend the Immigration and Nationality Act to make improvements to, and permanently authorize, the visa waiver pilot program under section 217 of such act.

H.R. 4051. An act to establish a grant program that provides incentives for States to enact mandatory minimum sentences for certain firearms offenses, and for other purposes.

H.R. 4067. An act to repeal the prohibition on the payment of interest on demand deposits, and for other purposes.

H.R. 4163. An act to amend the Internal Revenue Code of 1986 to provide for increased fairness to taxpayers.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 71. Concurrent resolution expressing the sense of Congress that Miami, Florida, and not a competing foreign city, should serve as the permanent location for the Secretariat of the Free Trade Area of the Americas (FTAA) beginning in 2005.

The message further announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 43. Joint resolution expressing the sense of Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1658) to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes.

The message further announced that pursuant to section 503(b)(3) of the National Skill Standards Act of 1994 (20 U.S.C. 5933), and upon the recommendation of the majority leader, the Speaker appoints the following member on the part of the House to the National Skill Standards Board for a 4-year term to fill the existing vacancy thereon: Mr. William L. Lepley of Hershey, Pennsylvania.

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At 5:08 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 303. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional adjournment or recess of the Senate.

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## MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4067. An act to repeal the prohibition on the payment of interest on demand deposits, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4163. An act to amend the Internal Revenue Code of 1986 to provide for increased fairness to taxpayers; to the Committee on Finance.

The Committee on Indian Affairs was discharged from further consideration of the following measure which was referred to the Committee on Energy and Natural Resources:

S. 2163. A bill to provide for a study of the engineering feasibility of a water exchange in lieu of electrification of the Chandler Pumping Plant at Prosser Diversion Dam, Washington.

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## MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1838. An act to assist in the enhancement of the security of Taiwan, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–8437. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated April 6, 2000; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986; to the Committees on Appropriations; the Budget; Armed Services; Banking, Housing, and Urban Affairs; Energy and Natural Resources; Environment and Public Works; and Foreign Relations.

EC–8438. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report entitled ''Annual Performance Report of the General Services Administration'' for fiscal year 1999; to the Committee on Governmental Affairs.

EC–8439. A communication from the Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the fiscal year 1999 Performance Report; to the Committee on Governmental Affairs.

EC–8440. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the fiscal year 1999 Accountability Report; to the Committee on Governmental Affairs.

EC–8441. A communication from the Chairman, Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the fiscal year 2001 Annual Performance Plan and the fiscal year 1999 Performance Report; to the Committee on Governmental Affairs.

EC–8442. A communication from the Secretary of Labor, transmitting, pursuant to law, the fiscal year 1999 Annual Report on Performance and Accountability; to the Committee on Governmental Affairs.

EC–8443. A communication from the Attorney General, transmitting, pursuant to law, the fiscal year 1999 Accountability Report; to the Committee on Governmental Affairs.

EC–8444. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the fiscal year 1999 Accountability and Performance Report and the Commission's Inspector General's fiscal year 1999 Performance Report; to the Committee on Governmental Affairs.

EC–8445. A communication from the Trustee, Court Services and Offender Supervision Agency for the District of Columbia, transmitting, pursuant to law, the fiscal year 1999 Performance Report; to the Committee on Governmental Affairs.

EC–8446. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the fiscal year 1999 Annual Performance Report and the fiscal year 2000 Annual Performance Plan; to the Committee on Governmental Affairs.

EC–8447. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the fiscal year 1999 Annual Program Performance Report; to the Committee on Governmental Affairs.

EC–8448. A communication from the United States Trade Representative, transmitting, pursuant to law, the fiscal year 2001 Performance Plan and the fiscal year 1999 Annual Performance Report; to the Committee on Governmental Affairs.

EC–8449. A communication from the Chairman, Defense Nuclear Facilities Safety

Board, transmitting, pursuant to law, the fiscal year 1999 Annual Program Performance Report; to the Committee on Governmental Affairs.

EC–8450. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the fiscal year 1999 Annual Performance Report; to the Committee on Governmental Affairs.

EC–8451. A communication from the Archivist of the United States, transmitting, pursuant to law, the fiscal year 1999 Annual Performance Report for the National Archives and Records Administration; to the Committee on Governmental Affairs.

EC–8452. A communication from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting, pursuant to law, the fiscal year 2001 Annual Performance Plan and the fiscal year 1999 Annual Program Performance Report; to the Committee on Governmental Affairs.

EC–8453. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Recent Inspection of Community Correctional Center No. 4 Confirms Overcrowded Condition and Building Code Violations''; to the Committee on Governmental Affairs.

EC–8454. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to additions to the Procurement List, received April 10, 2000; to the Committee on Governmental Affairs.

EC–8455. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the Financial Report of the United States Government for fiscal year 1999; to the Committee on Governmental Affairs.

EC–8456. A communication from the administrator and Chief Executive Officer, Bonneville Power Administration, Department of Energy transmitting, pursuant to law, the financial statements and audit reports of the Federal Columbia River Power System; to the Committee on Governmental Affairs.

EC–8457. A communication from the President, U.S. Institute of Peace, transmitting, pursuant to law, the report of the audit by independent certified public accountants; to the Committee on Health, Education, Labor, and Pensions.

EC–8458. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on progress under the Individuals with Disabilities Education Act; to the Committee on Health, Education, Labor, and Pensions.

EC–8459. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Removal of Designated Journals; Confirmation of Effective Date'' (Docket No. 99N-4957), received April 10, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8460. A communication from the General Counsel, Government Contracting, Small Business Administration transmitting, pursuant to law, the report of a rule entitled ''Government Contracting Programs-Contract Bundling Procurement Strategy'' (RIN3245-AE04), received April 10, 2000; to the Committee on Small Business.

EC–8461. A communication from the Director, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the 1999 annual report on the Preservation of Minority Savings Institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–8462. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, an interim report under the Grants for Special Diabetes Program for Indians; to the Committee on Indian Affairs.

EC–8463. A communication from the Vice President, Health, American Academy of Actuaries transmitting, the report of comments on the 2000 Annual Reports of the Board of Trustees of the Federal Hospital Insurance and Supplementary Medical Insurance Trust Funds; to the Committee on Finance.

EC–8464. A communication from the Regulations Officer, Social Security Administration transmitting, pursuant to law, the report of a rule entitled ''Federal Old-Age, Survivor and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Determining Disability and Blindness; Clarification of 'Age' as a Vocational Factor'' (RIN0960-AE96) (55A736F), received April 10, 2000; to the Committee on Finance.

EC–8465. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: Gaming Industry—The Applicable Recovery Period Under I.R.C. Section 168(A) for Slot Machines, Video Lottery Terminals and Gaming Furniture, Fixtures and Equipment'' (UIL 168.20–06), received April 10, 2000; to the Committee on Finance.

EC–8466. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Installment Sales After Enactment of Section 453(a)(2)'' (Notice 2000-26), received April 10, 2000; to the Committee on Finance.

EC–8467. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–8468. A communication from the Acting General Counsel, Department of Defense transmitting, a draft of proposed legislation relative to the management of the Department; to the Committee on Armed Services.

EC–8469. A communication from the Acting General Counsel, Department of Defense transmitting, a draft of proposed legislation relative to certain prototype projects for the next three years and for other purposes; to the Committee on Armed Services.

EC–8470. A communication from the Director, Federal Emergency Management Agency transmitting, pursuant to law, the report relative funding under the Stafford Act as a result of the response to Hurricane Floyd; to the Committee on Environment and Public Works.

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## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–454. A concurrent resolution adopted by the Legislature of the State of Kansas relative to the shipment of state-inspected meat and meat products and the number of poultry to be slaughtered at home for sale to the consumer; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 5050

Whereas, All regulations for state inspected commercial meat plants must be equal to or more strict than the federal regulations; and

Whereas, Since state inspected meat and meat products must be equal to the federal regulations, meat and meat products should be allowed to be shipped across state lines; and

Whereas, Currently, annually, only 1,000 poultry may be slaughtered at home and offered for sale to the consumer; and

Whereas, To meet current consumer demand, such number should be increased to 3,000 poultry: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That Congress pass legislation allowing state-inspected meat and meat products to be shipped interstate; and

*Be it further resolved:* That Congress pass legislation increasing the number of poultry to be slaughtered at home from 1,000 to 3,000; and

*Be it further resolved:* That the Secretary of the State be directed to send enrolled copies of this resolution to the President of the United States; the Vice-President of the United States; Majority Leader and Minority Leader of the United States Senate; the Speaker, Majority Leader and Minority Leader of the United States House of Representative; the Secretary of the United States Department of Agriculture; and to each member of the Kansas Congressional Delegation.

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## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2: A bill to extend programs and activities under the Elementary and Secondary Education Act of 1965 (Rept. No. 106–261).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1705: A bill to direct the Secretary of the Interior to enter into land exchanges to acquire from the private owner and to convey to the State of Idaho approximately 1,240 acres of land near the City of Rocks National Reserve, Idaho, and for other purposes (Rept. No. 106–262).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 1727: A bill to authorize for the expansion annex of the historic Palace of the Governors, a public history museum located, and relating to the history of Hispanic and Native American culture, in the Southwest and for other purposes (Rept. No. 106–263).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1797: A bill to amend the Alaska Native Claims Settlement Act, to provide for a land conveyance to the City of Craig, Alaska, and for other purposes (Rept. No. 106–264).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1836: A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama (Rept. No. 106–265).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1849: A bill to designate segments and tributaries of White Clay Creek, Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System (Rept. No. 106–266).

S. 1892: A bill to authorize the acquisition of the Valles Caldera, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture, and for other purposes (Rept. No. 106–267).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 1910: A bill to amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York (Rept. No. 106–268).

S. 1910: A bill to amend the Act establishing Women's Rights National Historical Park to permit the Secretary of the Interior to acquire title in fee simple to the Hunt House located in Waterloo, New York (Rept. No. 106–268).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1615: A bill to amend the Wild and Scenic Rivers Act to extend the designation of a portion of the Lamprey River in New Hampshire as a recreational river to include an additional river segment (Rept. No. 106–269) .

H.R. 3063: A bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for sodium that may be held by an entity in any one State, and for other purposes (Rept. No. 106–270).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 86: A joint resolution recognizing the 50th anniversary of the Korean War and the service by members of the Armed Forces during such war, and for other purposes.

H. Con. Res. 269: A concurrent resolution commending the Library of Congress and its staff for 200 years of outstanding service to the Congress and the Nation and encouraging the American public to participate in bicentennial activities.

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## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JEFFORDS for the Committee on Health, Education, Labor, and Pensions.

Mel Carnahan, of Missouri, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship foundation for a term expiring December 10, 2005. (Reappointment)

Edward B. Montgomery, of Maryland, to be Deputy Secretary of Labor.

Scott O. Wright, of Missouri, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for the remainder of the term expiring December 10, 2003.

Nathan O. Hatch, of Indiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Marc Racicot, of Montana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2004.

Alan D. Solomont, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2004.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH for the Committee on the Judiciary.

Marianne O. Battani, of Michigan, to be United States District Judge for the Eastern District of Michigan.

David M. Lawson, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Mark Reid Tucker, of North Carolina, to be United States Marshal for the Eastern District of North Carolina for the term of four years.

Richard C. Tallman, of Washington, to be United States Circuit Judges for the Ninth Circuit.

John Antoon II, of Florida, to be United States District Judge for the Middle District of Florida.

(The above nominations were reported with the recommendation that they be confirmed.)

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## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAYH (for himself, Mr. DURBIN, Mr. JOHNSON, Mrs. FEINSTEIN, Ms. LANDRIEU, Mr. EDWARDS, and Mrs. MURRAY):

S. 2403. To amend the Internal Revenue Code of 1986 to reduce the marriage penalty by providing a nonrefundable marriage credit and adjustment to the earned income credit; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2404. A bill to amend chapter 75 of title 5, United States Code, to provide that any Federal law enforcement officer who is convicted of a felony shall be terminated from employment; to the Committee on Governmental Affairs.

By Mr. SCHUMER:

S. 2405. A bill to prohibit predatory lending practices with respect to home loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. DEWINE, and Mr. LEAHY):

S. 2406. A bill to amend the Immigration and Nationality Act to provide permanent authority for entry into the United States of certain religious workers; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. KENNEDY):

S. 2407. A bill to amend the Immigration and Nationality Act with respect to the record of admission for permanent residence in the case of certain aliens; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. INOUYE):

S. 2408. A bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HOLLINGS (for himself and Mr. SARBANES) (by request):

S. 2409. A bill to provide for enhanced safety and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (by request):

S. 2410. A bill to increase the authorization of appropriations for the Reclamation Safety of Dams Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself, Mr. LEAHY, Mr. HARKIN, Mr. CONRAD, Mr. DORGAN, Mr. JOHNSON, Mr. FEINGOLD, Mr. KOHL, Mr. KERREY, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. LEVIN, and Mr. JEFFORDS):

S. 2411. A bill to enhance competition in the agricultural sector and to protect family farms and ranches and rural communities from unfair, unjustly discriminatory, or deceptive practices by agribusinesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCAIN:

S. 2412. A bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. THURMOND, Mr. BINGAMAN, Mr. JEFFORDS, Mr. SARBANES, Mr. COVERDELL, Mr. ROBB, Mr. SCHUMER, Mr. REED, and Mr. REID):

S. 2413. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify the procedures and conditions for the award of matching grants for the purchase of armor vests; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 2414. A bill to combat trafficking of persons, especially into the sex trade, slavery, and slavery-like conditions, in the United States and countries around the world through prevention, through prosecution and enforcement against traffickers, and through protection and assistance to victims of trafficking; to the Committee on Foreign Relations.

By Mr. SARBANES (for himself, Mr. DODD, Mr. SCHUMER, and Mr . KERRY):

S. 2415. A bill to amend the Home Ownership and Equity Protection Act of 1994 and other sections of the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. BOXER (for herself, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Ms. COLLINS, Mr. DASCHLE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MOYNIHAN, Mrs. MURRAY, Mr. ROBB, Mr. REED, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 286. A resolution expressing the sense of the Senate that the United States Senate Committee on Foreign Relations should hold hearings and the Senate should act on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); submitted and read.

By Mr. HELMS (for himself, Mr. KENNEDY, and Mr. LAUTENBERG):

S. Res. 287. A resolution expressing the sense of the Senate regarding U.S. policy toward Libya; to the Committee on Foreign Relations.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 288. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

By Mr. TORRICELLI (for himself, Mr. HELMS, Mr. GRAHAM, Mr. MACK, and Mr. REID):

S. Res. 289. A resolution expressing the sense of the Senate regarding the human rights situation in Cuba; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself and Mr. FEINGOLD):

S. Res. 290. A resolution expressing the sense of the Senate that companies large and small in every part of the world should support and adhere to the Global Sullivan Principles of Corporate Social Responsibility wherever they have operations; to the Committee on Foreign Relations.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2404. A bill to amend chapter 75 of title 5, United States Code, to provide that any Federal law enforcement officer who is convicted of a felony shall be terminated from employment; to the Committee on Governmental Affairs.

LEGISLATION REGARDING THE REMOVAL OF LAW ENFORCEMENT OFFICERS CONVICTED OF FELONIES

Mr. GRASSLEY. Mr. President, I rise to introduce a bill on removing federal law enforcement officers convicted of felonies.

Under my bill, any federal law enforcement officer, who is convicted of a felony, would have to be removed from his or her position immediately.

Mr. President, my colleagues must be wondering why the Senator from Iowa is offering this legislation. Law enforcement officers convicted of felonies are removed immediately. That's just common sense. Right?

Unfortunately, Mr. President, common sense does not always prevail in the federal bureaucracy.

Common sense is in short supply at one very important place in the Pentagon—the office of the Inspector General or DOD IG.

In October 1999, the Majority Staff on my Subcommittee on Administrative Oversight and the Courts issued a report on the DOD IG.

I placed the Majority Staff Report in the RECORD on November 2, 1999.

The Majority Staff Report substantiated allegations of misconduct by senior officials at the Defense Criminal Investigative Service—or DCIS—between 1993 and 1996.

DCIS is the criminal investigative branch in the DOD IG's office.

I would like to remind my colleagues that Mr. Donald Mancuso was the Director of DCIS between 1988 and 1997. Today, Mr. Mancuso is the Deputy DOD IG. He may be a candidate for nomination as the next DOD IG.

Some of the allegations examined in the Majority Staff Report concerned one of Mr. Mancuso's top deputies—an agent by the name of Mr. Larry J. Hollingsworth.

The Hollingsworth case is the driving force behind my bill.

Mr. Hollingsworth was the Director of Internal Affairs at DCIS from April 1991 until his retirement in September 1996.

In July 1995, after a fellow agent recognized Mr. Hollingsworth's photo in a law enforcement crime bulletin, Mr. Hollingsworth was apprehended. His home was searched, and he confessed to filing a fraudulent passport application.

Mr. Hollingsworth was convicted of a felony in U.S. District Court in March 1996.

The authorities who investigated Mr. Hollingsworth's crimes believe that he committed about 12 overt acts of fraud between 1992 and 1994.

Mr. President, can you imagine that?

While he was hammering rank and file agents for minor administrative offenses as head of the Internal Affairs unit, Mr. Hollingsworth was deeply involved in a criminal enterprise of his own.

The State Department agents who investigated the case were troubled by Mr. Hollingsworth's actions. From past experience, they know passport fraud is usually committed in furtherance of a more serious crime. But that crime was never discovered.

While the full extent of Mr. Hollingsworth's crimes remain a mystery, this case has helped to shed a whole lot of light on Deputy IG Mancuso.

Mr. Mancuso personally approved a series of administrative actions that kept a convicted felon in an employed status at DCIS for 6 months.

Mr. Hollingsworth confessed to passport fraud in July 1995. He was convicted in March 1996 and then confined in jail. All this time—for 14 months, Mr. Mancuso kept Mr. Hollingsworth in an employed status at DCIS until September 19,1996.

Mr. President, September 19, 1996 was the magic day. That was Mr. Hollingsworth's 50th birthday.

That was the very first day he was eligible to retire. On that day, he retired with full law enforcement benefits and Mr. Mancuso's blessing.

Mr. Mancuso's generosity will eventually cost the taxpayers a big chunk of money.

The Office of Personnel Management—OPM—estimated Mr. Hollingsworth's annuity will cost the taxpayers at least $750,000.00 through the year 2008.

This is money Mr. Hollingsworth should never collect had Mr. Mancuso exercised sound judgment under the law.

Mr. Mancuso could have removed Mr. Hollingsworth in March 1996 after conviction or maybe even sooner.

Instead, Mr. Mancuso chose to personally protect Mr. Hollingsworth until he reached his 50th birthday and could retire.

Mr Mancuso shielded Mr. Hollingsworth from the law for at least 6 months.

Under the law—5 U.S.C. 7513(b), Mr. Mancuso was authorized to remove Mr. Hollingsworth after conviction—if not sooner.

Mr. President, I underscore the words authorized. DCIS was authorized but not required to remove him.

Under the law, DCIS was granted discretionary authority to decide when—or if—to remove him.

Mr. President, too much discretionary authority in a place so short on common sense can lead to mistakes. The Hollingsworth case was a big mistake.

If my bill had been in effect in 1996, Mr. Hollingsworth would have been removed within 30 days of conviction.

My staff has consulted with OPM on this legislation.

OPM offered some constructive comments on how to strengthen it. Those ideas are now in the bill.

OPM was unaware of any other instance where a federal law enforcement agency had kept a convicted felon in an employed status for 6 months after conviction.

However, OPM could not guarantee that this would never happen again.

The intent of my legislation should be crystal clear: To ensure that personnel management decisions—like those taken by Mr. Mancuso in the Hollingsworth case—are never repeated again.

Over the past 10 months, my staff has spoken with many rank and file law enforcement officers about the special treatment given to Mr. Hollingsworth.

Rank and file agents are universally disgusted by what happened.

They feel—as I do—that law enforcement officers, who are convicted of felonies—should be removed from their posts immediately.

They don't want their badges tarnished by having one of their own, who committed a felony, remain on the job—as Mr. Hollingsworth was allowed to do.

That undermines morale in the ranks.

In closing, I would like to quote from a letter Mr. Mancuso wrote—on official DOD stationery—to Judge Ellis on April 29, 1996.

Judge Ellis was preparing to sentence the convicted felon, Mr. Hollingsworth.

Mr. Mancuso's statements to Judge Ellis were absurd. They were outrageous.

This letter shows that Mr. Mancuso was totally blind to the seriousness of Mr. Hollingsworth's crimes.

In the letter, Mr. Mancuso asked the judge to consider extenuating circumstances. He told the judge that Mr. Hollingsworth had taken a half day's leave to file the fraudulent passport application. Mr. Mancuso praised the convicted felon for this unselfish act. Can you believe that?

This is what Mr. Mancuso said to Judge Ellis, and I quote: ''Mr. Hollingsworth could have come and gone as he pleased,'' but he ''took leave to commit a felony.''

In Mr. Mancuso's mind, the use of personal leave to commit a felony was a sign of moral excellence.

Mr. Mancuso concluded with this telling remark:

To this day, there is no evidence that Mr. Hollingsworth has ever done anything improper relating to his duties and responsibilities as a DCIS agent and manager.

Mr. Mancuso's statement to Judge Ellis was misguided for two reasons:

First, incredible as it may seem, Mr. Mancuso—a sworn law enforcement officer and current Deputy DOD IG—feels that it is OK for law enforcement officers to commit crimes so long as the agents are off duty.

Second, Mr. Mancuso's assertion about ''no evidence'' is flat wrong. It's inaccurate.

On February 1, 2000, my staff discovered a DCIS file containing information that refuted Mr. Mancuso's assertions to Judge Ellis about no evidence. It shows that in August 1995, both DCIS and the State Department did, in fact, have evidence that Mr. Hollingsworth had engaged in criminal activity at his desk in DCIS headquarters.

How could the Pentagon's top criminal investigator be so blind to evidence?

This file also contains other important revelations about Mr. Mancuso's misconduct in the Hollingsworth case.

It contains documents that indicate Mr. Mancuso was communicating with defense attorneys during the criminal court proceedings against Mr. Hollingsworth.

For example, it contains a FAX transmittal memo addressed personally to Mr. Mancuso from the defense attorney. Attached was a motion to dismiss charges against Mr. Hollingsworth. But there was no court date stamp or attorney signature on the document. And there were handwritten notes on it. This was a rough draft.

Mr. President, this really bothers me.

Mr. Mancuso—the director of a federal law enforcement agency—was furnished with a rough draft of a motion to dismiss felony charges that the U.S. Attorney was attempting to prosecute.

That is unethical conduct.

The file contains other damaging documents.

They suggest that the current Director of DCIS, Mr. John Keenan, returned 11 confiscated handguns to the convicted felon—Mr. Hollingsworth—in direct contravention of a federal court judgment and statutory law.

DCIS allegedly returned the guns to Mr. Hollingsworth on September 23, 1997, while he was still on supervised probation. This reckless act could have put a probation officer in harm's way.

We also learned that Mr. Hollingsworth was under investigation by the IRS in November 1983 for perjury. That very same month—November 1983, he was hired by DCIS to be the agent in charge of the Chicago Field Office.

The IRS concluded Mr. Hollingsworth had ''committed perjury during rebuttal testimony.'' On December 5, 1983, the IRS referred the matter to the U.S. Attorney in New Orleans for prosecution.

Mr. President, how could DCIS hire Mr. Hollingsworth under such questionable circumstances?

I don't understand it.

Mr. President, Mr. Mancuso went to extraordinary lengths to protect a convicted felon.

By doing what he did, Mr. Mancuso violated a trust that goes with the high office he occupies. He violated the trust that goes with the badge and gun he carries. In our democracy, when those sacred trusts are violated, our only protection is the law.

In this case, the law provides too much discretionary authority. It leaves the door wide open to abuse by irresponsible bureaucrats. We need to close that door.

My bill will close the loophole that Mr. Mancuso exploited in such a crafty way.

Mr. President, I would like to urge my colleagues to join me in supporting this important piece of legislation.

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By Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. DEWINE, and Mr. LEAHY):

S. 2406. A bill to amend the Immigration and Nationality Act to provide permanent authority for entry into the United States of certain religious workers; to the Committee on the Judiciary.

MOTHER TERESA RELIGIOUS WORKERS ACT

Mr. ABRAHAM. Mr. President, I rise to introduce the Mother Teresa Religious Workers Act. This legislation will make permanent provisions of the Immigration and Nationality Act that set aside 10,000 visas per year for ''special immigrants.''

Up to 5,000 of these visas annually can be used for ministers of a religious denomination. In addition, a related provision of the law provides 5,000 visas per year to individuals working for religious organizations in ''a religious vocation or occupation'' or in a ''professional capacity in a religious vocation or occupation.'' This has allowed nuns, brothers, cantors, lay preachers, religious instructors, religious counselors, missionaries, and other persons to work at their vocations or occupations for religious organizations or their affiliates.

The key component of the law will expire on September 30 of this year unless Congress acts.

Under the law, a sponsoring organization must be a bona fide religious organization or an affiliate of one, and must be certified or eligible to be certified under Section 501(c)(3) of the Internal Revenue Code. Religious workers must have two years work experience to qualify for an immigrant visa.

Prior to 1990, churches, synagogues, mosques, and their affiliated organizations experienced significant difficulties in trying to gain admission for a much needed minister or other individual necessary to provide religious services to their communities. However, this improvement in the law in 1990 was not made permanent and, as such, has required reauthorization every two or three years, which has created uncertainly among religious organizations.

Bishop John Cummins of Oakland has written:

Religious workers provide a very important pastoral function to the American communities in which they work and live, performing activities in furtherance of a vocation or religious occupation often possessing characteristics unique from those found in the general labor market. Historically, religious workers have staffed hospitals, orphanages, senior care homes and other charitable institutions that provide benefits to society without public funding.

Bishop Cummins noted that,

The steady decline in native-born Americans entering religious vocations and occupations, coupled with the dramatically increasing need for charitable services in impoverished communities makes the extension of this special immigrant provision a necessity for numerous religious denominations in the United States.

The sentiments expressed by Bishop Cummins are widely held. Indeed this program has won universal praise in religious communities across the nation. In the past, our office has received letters from religious orders and organizations throughout the nation.

As a nation founded by people who came to these shores so they and their children could worship freely, it is only appropriate that our country welcome those who wish to help our religious organizations provide pastoral and other relief to people around this nation.

That is why I have introduced the Mother Teresa Religious Workers Act. The bill will eliminate the sunset provisions in current law and extend permanently the religious workers provisions of the Immigration and Nationality Act. It is clear that religious organizations' ability to sponsor individuals who provide service to their local communities should be a permanent fixture of our immigration law, just as it is for those petitioning for close family members and skilled workers. No longer should religious institutions have to worry about whether Congress will act in time to renew the religious workers provisions. I am pleased Senators KENNEDY, DEWINE, and LEAHY are cosponsoring this legislation.

Finally, I would like to close by reading a passage from a letter sent to me in 1997. It's a letter that at the time helped convince me of the need to move toward permanent extension of the religious workers provisions of the Immigration and Nationality Act. The letter read as follows:

DEAR SENATOR ABRAHAM: I am writing to ask you to help us in solving a very urgent problem. My Sisters in New York have told me that the law which allows the Sisters to apply for permanent residence in the United States expires on September 30, 1997. Please, will you do all that you can to have that law extended so that all Religious will continue to have the opportunity to be permanent residents and serve the people of your great country.

It means so much to our poor people to have Sisters who understand them and their culture. It takes a long time for a Sister to understand the people and a culture, so now our Society wants to keep our Sisters in their mission countries on a more long term basis. Please help us and our poor by extending this law.

I am praying for you and the people of Michigan. My Sisters serve the poor in Detroit where we have a soup kitchen and night shelter for women. Let us all thank God for this chance to serve His poor.

Signed: MOTHER TERESA.

My office received this letter only a few weeks before her death. In honor of her great deeds for humanity I hope that this year we can finally extend the religious workers provisions of the INA permanently.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2406

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Mother Teresa Religious Workers Act''.

**SEC. 2. PERMANENT AUTHORITY FOR ENTRY INTO UNITED STATES OF CERTAIN RELIGIOUS WORKERS.**

Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking ''before October 1, 2000,'' each place it appears.

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By Mr. REID (for himself and Mr. KENNEDY):

S. 2407. A bill to amend the Immigration and Nationality Act with respect to the record of admission for permanent residence in the case of certain aliens; to the Committee on the Judiciary.

DATE OF REGISTRY ACT OF 2000

Mr. REID. Mr. President, I rise today along with the Senior Senator from Massachusetts, Mr. KENNEDY, to introduce the Date of Registry Act of 2000.

The Date of Registry Act of 2000, complements similar legislation I introduced last year in an effort to fix a terrible mistake made by the Congress in 1996. Tucked into the massive piece of legislation known as IIRA IRA, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, was an obscure, but lethal, provision which stripped the federal courts of jurisdiction to adjudicate legalization claims against the Immigration and Naturalization Service. Most troubling is the fact that this provision nullified legitimate claims based upon substantiated evidence that the Immigration and Nationalization Service had bypassed Congressional intent in denying benefits to certain undocumented persons who have come to be known as the ''late amnesty'' class of immigrants. Through this limitation, Section 377 of IIRA IRA has caused significant hardships, and denied due process and fundamental fairness, for hundreds of thousands of hard working immigrants, including several thousand in my home State of Nevada. These are good, hard-working people who have been in the United States and had been paying taxes for more than ten years, who suddenly lost their jobs and the ability to support their families.

In an effort to repeal the limitation on judicial jurisdiction imposed by Section 377 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, I introduced S. 1552, the Legal Amnesty Restoration Act of 1999. In addition to repealing Section 377, S. 1552 would also change the date of registry for those immigrants seeking legalized, documented status in the United States from January 1, 1972, to January 1, 1984. The legislation I am introducing today focuses on this aspect of last year's legislation, and would change the date of registry from January 1, 1972, to January 1, 1986.

The date of registry exists as a matter of public policy, with the recognition that immigrants who have remained in the country continuously for an extended period of time—in some cases, up to thirty years—are highly unlikely to leave. Today, we must accept the reality that many of the people living in the United States are undocumented immigrants who have been here for quite a long time. Consequently, many people living in this country do not pay their fair share of taxes because they are unable to work legally. Furthermore, the businesses who employ these undocumented persons also do not pay their fair share of taxes. These are the facts, and coupled with the knowledge that we can't simply solve this problem by wishing that it will go away, is the reality we must face when considering our immigration policies.

We last changed the date of registry in 1986, with the passage of the Immigration Reform and Control Act, which changed the date to January 1, 1972. In doing so, the 99th Congress employed the same rationale I have outlined above in support of a registry date change. Furthermore, I have mirrored the 99th Congress in another, critical aspect, by establishing an approximate fifteen-year differential between the date of enactment and the updated date of registry.

Mr. President, I should note one more thing about the Immigration Reform and Control Act of 1986. That legislation which last changed the date of registry was passed by a Democratic House of Representatives and a Republican Senate, and was signed into law by President Reagan. I mention these facts to highlight my hope that support for this legislation will be bi-partisan and based upon our desire to ensure fundamental fairness as a matter of public policy in this country.

Finally, the legislation I am introducing today builds upon the fifteen year differential standard established in the 1986 reform legislation by implementing a ''rolling registry'' date which would sunset in five years without Congressional reauthorization. In other words, on January 2002, the date of registry would automatically change to January 1, 1987, thereby maintaining the fifteen year differential. The date of registry would continue to change on a rolling basis through January 1, 2006, when the date of registry would be January 1, 1991. Limiting this annual, automatic change to five years will allow the Congress to examine both the positive and negative effects of a rolling date of registry and make an informed decision on reauthorization.

Mr. President, as I stated when I introduced S. 1552 last year, I don't pretend that this legislation will solve all the problems of our immigration and legalization procedures. However, we have an obligation to face our problems, and the reality is that there are many, many undocumented immigrants who live in this country who would be much more productive contributors to American society if they were legal residents, workers and taxpayers. We know this to be true, as evidenced by the thousands of immigrants in Southern Nevada whose status had yet to be adjusted, but were working legally and paying taxes—in some instances for more than ten years—when their employment permits were revoked as a result of the 1996 IIRA IRA legislation. I have met with many of these people on several occasions and I have witnessed, firsthand, their pain and genuine suffering. Good people who have worked hard and paid their taxes in order to live the American dream only to see their efforts turn into a nightmare.

As I stated when I introduced S. 1552 last year, I don't pretend that my legislation will solve all the problems of immigration and legalization policies. However, we must face these problems head on, and that is precisely my intent in introducing this legislation today.

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By Mr. BINGAMAN (for himself and Mr. INOUYE):

S. 2408. A bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

HONORING THE NAVAJO CODE TALKERS ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation, recognizing the heroic contributions of a group of Native American soldiers who served in the Pacific theater during the second World War. This legislation will authorize the President of the United States to award a gold medal, on behalf of the Congress, to each of the original twenty-nine Navajo Code Talkers, as well as a silver medal to each man who later qualified as a Navajo Code Talker (MOS 642). These medals are to express recognition by the United States of America and its citizens of the Navajo Code Talkers who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and in hastening the end of the war in the Pacific.

It has taken too long to properly recognize these soldiers, whose achievements have been obscured by twin veils

of secrecy and time. As they approach the final chapter of their lives, it is only fitting that the nation pay them this honor. That's why I am introducing this legislation today—to salute these brave and innovative Native Americans, to acknowledge the great contribution they made to the Nation at a time of war, and to finally give them their rightful place in history.

With each new successive generation of Americans, blessed as we are in this time of relative peace and prosperity, it is easy to forget what the world was like in the early 1940's. The United States was at war in Europe, and on December 7, 1941, we were faced with a second front as the Japanese Empire attacked Pearl Harbor.

One of the intelligence weapons the Japanese possessed was an elite group of well-trained English speaking soldiers, used to intercept U.S. communications, then sabotage the message or issue false commands to ambush American troops. Military code became more and more complex—at Guadalcanal, military leaders complained that it took 2½ hours to send and decode a single message.

The idea to use Navajo for secure communications came from Philip Johnson. Johnson was the son of a missionary, raised on the Navajo reservation, and one of the few non-Navajos who spoke their language fluently. But he was also a World War I veteran, and knew of the military's search for a code that would withstand all attempts to decipher it. Johnson believed Navajo answered the military requirement for an undecipherable code because Navajo is an unwritten language of extreme complexity. In early 1942, he met with the Commanding General of Amphibious Corps, Pacific Fleet, and his staff to convince them of the value of the Navajo language as code. In one of his tests, he demonstrated that Navajos could encode, transmit, and decode a three-line English message in 20 seconds. Twenty-seconds!

Convinced, the Marine Corps called upon the Navajo Nation to support the military effort by recruiting and enlisting Navajo men to serve as Marine Corps Radio Operators. These Navajo Marines, who became known as the Navajo Code Talkers, used the Navajo language to develop a unique code to communicate military messages in the South Pacific. True to Phillip Johnson's prediction, and the enemy's frustration, the code developed by these Native Americans proved unbreakable and was used throughout the Pacific theater.

Their accomplishment was even more heroic given the cultural context in which they were operating:

The Navajos were second-class citizens and were discouraged from using their own language; and

They were living on reservations, as many still are today, yet they volunteered to serve, protect, and defend the very power that put them there.

But the Navajo, a people subjected to alienation in their own homeland, who had been discouraged from speaking their own language, stepped forward and developed the most significant and successful military code of the time:

This Code was so successful that military commanders credited the Code in saving the lives of countless American soldiers and the successful engagements of the U.S. in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa. At Iwo Jima, Major Howard Connor, 5th Marine Division signal officer, declared, ''Were it not for the Navajos, the Marines would never have taken Iwo Jima.'' Major Connor had six Navajo code talkers working around the clock during the first 48-hours of the battle. Those six sent and received over 800 messages, all without error;

This Code was so successful that some Code Talkers were guarded by fellow marines whose role was to kill them in case of imminent capture by the enemy; and finally,

It was so successful that the Department of Defense kept the Code secret for 23 years after the end of World War II, when it was finally declassified.

And there, Mr. President, is the foundation of the problem.

If their achievements had been hailed at the conclusion of the war, proper honors would have been bestowed at that time. But the Code Talkers were sworn to secrecy, an oath they kept and honored, but at the same time, one that robbed them of the very accolades and place in history they so rightly deserved. Their ranks include veterans of Guadalcanal, Saipan, Iwo Jima, and Okinawa; they gave their lives at New Britain, Bougainville, Guam, and Peleliu. But, while the bodies of their fallen comrades came home, simple messages of comfort from those still fighting to relatives back home on the reservations were prohibited by the very secrecy of the code's origin. And at the end of the war, these unsung heroes returned to their homes on buses—no parades, no fanfare, no special recognition for what they had truly accomplished—because while the war was over, their duty—their oath of secrecy—continued. The secrecy surrounding the code was maintained until it was declassified in 1968—only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

For the countless lives they helped save, for this contribution that helped speed the Allied victory in the Pacific, I believe they succeeded beyond all expectations.

Through the enactment of this bill, the recognition for the Navajo Code Talkers will be delayed no longer, and they will finally take their place in history they so rightly deserve.

To this end, I urge my colleagues to support the bill.

Mr. President, I ask for unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2408

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Honoring the Navajo Code Talkers Act''

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) On December 7, 1941, the Japanese Empire attacked Pearl Harbor and war was declared by the Congress the following day.

(2) The military code, developed by the United States for transmitting messages, had been deciphered by the Japanese and a search by U.S. Intelligence was made to develop new means to counter the enemy.

(3) The United States government called upon the Navajo Nation to support the military effort by recruiting and enlisting twenty-nine (29) Navajo men to serve as Marine Corps Radio Operators; the number of enlistees later increased to over three-hundred and fifty.

(4) At the time, the Navajos were second-class citizens, and they were a people who were discouraged from using their own language.

(5) The Navajo Marine Corps Radio Operators, who became known as the Navajo Code Talkers, were used to develop a code using their language to communicate military messages in the Pacific.

(6) To the enemy's frustration, the code developed by these Native Americans proved to be unbreakable and was used extensively throughout the Pacific theater.

(7) The Navajo language, discouraged in the past, was instrumental in developing the most significant and successful military code of the time. At Iwo Jima alone, they passed over 800 error-free messages in a 48-hour period;

(a) So successful, that military commanders credited the Code in saving the lives of countless American soldiers and the successful engagements of the U.S. in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa;

(b) So successful, that some Code Talkers were guarded by fellow marines whose role was to kill them in case of imminent capture by the enemy;

(c) So successful, that the code was kept secret for 23 years after the end of World War II.

(8) Following the conclusion of World War II, the U.S. Department of Defense maintained the secrecy of the Navajo code until it was declassified in 1968; only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

**SEC. 3. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The President is authorized to award to each of the original twenty-nine Navajo Codes Talkers, or a surviving family member, on behalf of the Congress, a gold medal of appropriate design, honoring the Navajo Codes Talkers. The President is further authorized to award to each man who qualified as a Navajo Code Talker (MOS 642), or a surviving family member, a silver medal with suitable emblems and devices. These medals are to express recognition by the United States of America and its citizens in honoring the Navajo Code Talkers who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and in hastening the end of the World War II in the Pacific.

(b) DESIGN AND STRIKING.—For the purposes of the award referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the 'Secetary') shall strike

a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

**SEC. 4. DUPLICATE MEDALS.**

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 5. STATUS AS NATIONAL MEDALS.**

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

**SEC. 6. FUNDING.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

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By Mr. HOLLINGS (for himself and Mr. SARBANES) (by request):

S. 2409. A bill to provide for enhanced safety and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PIPELINE SAFETY AND COMMUNITY PROTECTION ACT OF 2000

Mr. HOLLINGS. Mr. President, I am pleased to introduce the Pipeline Safety and Community Protection Act of 2000 on behalf of the administration. Yesterday, Vice President GORE transmitted this proposal to the Congress, and requested introduction and referral of the bill to the appropriate committee. The purpose of this legislation is to provide for enhanced safety and environmental protection in pipeline transportation.

The Senate Committee on Commerce, Science, and Transportation held a field hearing in Bellingham, Washington, last month on pipeline safety. In addition, I expect the committee to hold another hearing on pipeline safety reauthorization within the next month. Senator MURRAY has introduced a pipeline safety bill and it is my understanding that an additional pipeline safety bill is to be introduced by Chairman MCCAIN today. I am interested in reviewing all of the bills and look forward to the committee's action on pipeline safety reauthorization in the coming months.

Mr. President, I request unanimous consent that the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2409

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Pipeline Safety and Community Protection Act of 2000''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) TABLE OF CONTENTS.—



**SEC. 2. ADDITIONAL PIPELINE PROTECTIONS.**

(a) Section 60109 is amended by adding at the end the following:

''(c) OPERATOR'S RISK ANALYSIS AND PROGRAM FOR INTEGRITY MANAGEMENT.—

(1) GENERAL REQUIREMENT.—Within 1 year after the Secretary, in consultation with the Administrator of the Environmental Protection Agency, establishes criteria under subsection (a)(1) of this section, an operator of a natural gas transmission pipeline facility or hazardous liquid pipeline facility shall evaluate the risks to the operator's pipeline facility in the areas identified by these criteria and shall adopt and implement a program for integrity management that reduces the risks in those areas.

''(2) STANDARDS FOR PROGRAM.—An operator shall include at least the following in the program for integrity management:

''(A) internal inspection or another equally protective method, such as pressure testing, that represents use of the best achievable technology and that directly assesses the integrity of the pipeline on a periodic basis that is commensurate to the risk to people and the environment of the pipeline being inspected;

''(B) clearly defined criteria for evaluating and acting on the results of the inspection or testing done under subparagraph (A);

''(C) an analysis on a continuing basis that integrates all available information about the integrity of the pipeline or the consequences of a release;

''(D) prompt actions to address integrity issues raised by the analysis required by subparagraph (C);

''(E) measures that prevent and mitigate the consequences of a release and, in the case of a release of a hazardous substance or discharge of oil, are consistent with the National Contingency Plan, including leak detection, integrity evaluation, emergency flow restricting devices, and other prevention, detection, and mitigation measures that are appropriate for the protection of human health and the environment; and

''(F) consideration of the consequences of hazardous liquid releases.

''(3) CRITERIA FOR PROGRAM STANDARDS.—

''(A) In deciding how frequently the inspection or testing under paragraph (2)(A) must be conducted, an operator shall take into account the potential for the development of new defects, the operational characteristics of the pipeline, including age, operating pressure, block valve location, and spill history, the location of areas identified under subsection (a)(1), any known deficiencies of the method of pipeline construction or installation, and the possible flaw growth of new and existing defects. In considering the potential for development of new defects from outside force damage, an operator shall consider information available about current or planned excavation activities and the effectiveness of damage prevention programs in the area.

''(B) An operator shall adopt standards under this section that provide an equivalent minimum level of protection as that provided by the applicable level established by national consensus standards organizations.

''(C) An operator shall implement pressure testing and other integrity management techniques in a manner that does not increase environmental or safety risks, such as by use of petroleum for pressure testing.

''(4) AUTHORITY FOR ADDITIONAL STANDARDS.—The Secretary shall prescribe additional standards to direct an operator's conduct of a risk analysis or adoption or implementation of a program for integrity management. These standards shall address the type or frequency of inspection or testing required, the manner in which it is conducted, the criteria used in analyzing results, the types of information sources that must be integrated as well as the manner of integration, the nature and timing of actions selected to address integrity issues, and such other factors as appropriate to assure that the integrity of the pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1). The Secretary may also prescribe standards that require an owner or operator of a natural gas transmission or hazardous liquid pipeline facility to include in the program of integrity management changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the risk analysis the operator conducts, and the use of emergency flow restricting devices.

''(5) MONITORING IMPLEMENTATION.—A risk analysis and program for integrity management required under this section shall be reviewed by the Secretary of Transportation as an element of Departmental inspections, and the analysis and program, as well as the records demonstrating implementation, shall be made available to the Secretary on request under section 60117.''.

(b) Section 60102 is amended—

(1) by striking ''facilities.'' in subsection (e)(2) and inserting ''facilities, not including tanks incidental to pipeline transportation.'';

(2) by striking paragraph (2) of subsection (f);

(3) by striking ''(1)'' in subsection (f);

(4) by redesignating subparagraphs (A) and (B) of subsection (f)(1) (as such subsection was in effect before its amendment by paragraph (3) of this subsection) as paragraphs (1) and (2), respectively;

(5) by striking paragraph (2) of subsection (j) and redesignating paragraph (3) as paragraph (2); and

(6) by adding at the end thereof the following:

''(m) INTEGRITY MANAGEMENT REGULATIONS.—

''(1) Not later than December 31, 2000, the Secretary shall issue final regulations authorized by this section and sections 60104, 60108, and 60109 for the implementation of an integrity management program by operators of more than 500 miles of hazardous liquid pipelines.

''(2) Not later than 2 years after the date of enactment of the Pipeline Safety and Community Protection Act of 2000, the Secretary shall issue final regulations that extend the requirements imposed by the regulations described in paragraph (1) to every operator of

a hazardous liquid pipeline or natural gas transmission pipeline subject to the jurisdiction of this chapter. In the event that the Secretary fails to fulfill this requirement within two years, all the requirements imposed by the regulations described in paragraph (1) shall, on the date that is two years after the enactment of this subsection, apply to every operator of a hazardous liquid pipeline or natural gas transmission pipeline subject to the jurisdiction of this chapter.

''(3) Not later than 3 years after the date of enactment of the Pipeline Safety and Community Protection Act of 2000—

''(A) the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas;

''(B) the Secretary shall promptly make a Secretarial determination as to the effect on safety and the environment of extending the requirements imposed by the regulations described in paragraph (1) to additional areas using the best achievable technology; and

''(C) based on the determination described in subparagraph (B), the Secretary shall promptly promulgate regulations that would provide measurable improvements to safety or the environment in these areas by extending regulatory requirements at least as protective to these areas.''.

(f) Section 60118(a) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) striking ''title.'' in paragraph (3) and inserting ''title; and''; and

(3) adding at the end the following:

''(4) conduct a risk analysis and prepare and carry out a program for integrity management for pipeline facilities in certain areas as required under section 60109(c).''.

(g) Section 60104(b) is amended by striking ''adopted.'' and inserting ''adopted, unless the Secretary determines that application of the standard is necessary for safety or environmental protection.''.

**SEC. 3. COMMUNITY RIGHT TO KNOW AND EMERGENCY PREPAREDNESS.**

(a) Section 60116 is amended to read as follows:

**§ 60116. Community right to know**

''(a) PUBLIC EDUCATION PROGRAMS.—

''(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

''(2) Within 1 year after the date of enactment of the Pipeline Safety and Community Protection Act of 2000, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed plan shall be reviewed by the Secretary of Transportation as an element of Departmental inspections.

''(3) The Secretary may issue standards prescribing the details of a public education program and providing for periodic review of the effectiveness and modification as needed. The Secretary may also develop material for use in the program.

''(b) LIAISON WITH STATE AND LOCAL EMERGENCY RESPONSE ENTITIES.—Within 1 year after the date of enactment of the Pipeline Safety and Community Protection Act of 2000, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates. An operator shall, when requested, make available to the State emergency response commissions and local emergency planning committees the information described in section 60102(d), any program for integrity management developed under section 60109(c), and information about implementation of that program and about the risks the program is designed to address. In a community without a local emergency planning committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.

''(c) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall make available to the public a safety-related condition report filed by an operator under section 60102(h) and a report of a pipeline incident filed by an operator under this chapter.

''(d) ACCESS TO INTEGRITY MANAGEMENT PROGRAM INFORMATION.—The Secretary shall prescribe requirements for public access to integrity management program information prepared under this chapter.

''(e) AVAILABILITY OF MAPS.—

''(1) The owner or operator of each interstate gas pipeline facility shall provide, at least annually, to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of the facility.

''(2) Not later than 1 year after the date of enactment of the Pipeline Safety and Community Protection Act of 2000, and annually thereafter, the owner or operator of each hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility.

''(f) EFFECTIVENESS OF PUBLIC SAFETY AND PUBLIC EDUCATION PROGRAMS.—

''(1) The Secretary shall survey and assess the public education programs under this section and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. The survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

''(2) In issuing standards for public safety programs under section 60102(a) or for public education programs under this section, the Secretary shall consider the results of the survey and assessment done under paragraph (1).

''(3) The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities.''.

(d) Section 60102(c) is amended by striking paragraph (4).

(e) Section 60102(h)(2) is amended by striking ''authorities.'' and inserting ''officials, including the local emergency responders, and appropriate on-scene coordinators for the area contingency plan or sub-area contingency plan.''.

(f) Section 60120(c) is amended by adding at the end the following: ''Nothing in section 60116 shall be deemed to impose a new duty on State or local emergency responders or local emergency planning committees.''.

(g) The analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:

''60116. Community right to know''.

**SEC. 4. ENFORCEMENT.**

(a) GENERAL AUTHORITY.—Section 60112 is amended—

(1) by striking all after ''if the Secretary'' in subsection (a) and inserting ''decides that—

''(1) operation of the facility is or would be hazardous to life, property, or the environment; or

''(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.'';

(2) by striking ''is hazardous'' in subsection (d) and inserting ''is or would be hazardous''; and

(3) by adding at the end the following:

''(f) OPTIONAL WAIVER OF NOTICE AND HEARING REQUIREMENTS.—If the Secretary decides that a facility may present a hazard under subsection (a)(1) or (2), the Secretary may waive the notice and hearing requirements in subsection (a) and request the Attorney General to bring suit on behalf of the United States in an appropriate district court to obtain an order to restrain the operator of the facility from such operation, or to take such other action as may be necessary, or both.''.

(b) CIVIL PENALTIES.—Section 60122 is amended—

(1) by striking ''$25,000'' in subsection (a)(1) and ''$500,000'' and substituting ''$100,000'' and ''$1,000,000'', respectively; and

(2) by adding at the end of subsection (a)(1) ''The maximum civil penalty for a related series of violations does not apply to a judicial enforcement action under section 60120 or 60121.''; and

(3) by striking subsection (b) and inserting the following:

''(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—

''(1) the Secretary shall consider—

''(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

''(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, any effect on ability to continue doing business; and

''(C) good faith in attempting to comply; and

''(2) the Secretary may consider—

''(A) the economic benefit gained from the violation without any discount because of subsequent damages; and

''(B) other matters that justice requires.''.

(c) EXCAVATOR DAMAGE.—Section 60123(d) is amended—

(1) by striking ''knowingly and willfully'';

(2) by inserting ''knowingly and willfully'' before ''engages'' in paragraph (1); and

(3) striking paragraph (2)(B) and inserting the following:

''(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''.

(d) CIVIL ACTIONS.—Section 60120(a)(1) is amended to read as follows:

''(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may

award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122.''.

(e) CITIZEN SUITS.—Section 60121(a)(1) is amended by striking the first sentence and ''However, the'' and inserting: ''A person may bring a civil action in an appropriate district court of the United States against a person owning or operating a pipeline facility to enforce compliance with this chapter or a standard prescribed or an order issued under this chapter. The district court may enjoin noncompliance and assess civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122. The''.

**SEC. 5. UNDERGROUND DAMAGE PREVENTION.**

(a) Section 60114 is amended by inserting after subsection (b) the following:

''(c) CONFORMITY WITH CHAPTER 61.—Regulations prescribed by the Secretary under subsection (a) do not apply to a State that has a One-Call notification program accepted by the Secretary as meeting the minimum standards of section 6103 of this title or approved by the Secretary as an alternative program under section 6104(c) of this title.''.

(b) Section 60102(c) is amended—

(1) by inserting ''or hazardous liquid pipeline facility'' before ''participate'' in paragraph (1); and

(2) striking paragraph (3).

(c) Section 60104 is amended by adding at the end the following:

''(f) STATE ONE-CALL NOTIFICATION LAWS.—Notwithstanding subsection (c) of this section, a State may enforce a requirement of a One-Call notification law that satisfies sections 6103 or 6104(c) of this title, or section 60114(a) of this chapter, against an operator of an interstate natural gas pipeline facility or an interstate hazardous liquid pipeline facility provided that the requirement sought to be enforced is compatible with the minimum standards prescribed under this chapter.''.

(d) Section 60123 is amended by adding at the end thereof the following:

''(e) MISDEMEANOR FOR NOT USING ONE-CALL.—A person shall be fined under title 18, imprisoned for not more than 1 year, or both, if the person knowingly engages in an excavation activity without first using an available one-call notification system to establish the location of underground facilities in the excavation area.''.

**SEC. 6. ENHANCED ABILITY OF STATES TO OVERSEE OPERATOR ACTIVITIES.**

(a) Section 60106(a) is amended—

(1) by inserting ''(1)'' before ''If'';

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) adding at the end thereof the following:

''(2) If the Secretary accepts a certification under section 60105 of this title, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. An agreement shall include a plan for the State authority to participate in special investigations involving new construction or incidents.

''(3) An agreement under paragraph (2) may also include a program allowing for participation by the State authority in other activities overseeing interstate pipeline transportation that supplement the Secretary's program and address issues of local concern, provided that the Secretary determines that—

''(A) there are no significant gaps in the regulatory jurisdiction of the State authority over intrastate pipeline transportation;

''(B) implementation of the agreement will not adversely affect the oversight of intrastate pipeline transportation by the State authority;

''(C) the program allowing participation of the State authority is consistent with the Secretary's program for inspection; and

''(D) the State promotes preparedness and prevention activities that enable communities to live safely with pipelines.''.

(b) Section 60106(d) is amended by inserting after the first sentence the following: ''In addition, the Secretary may end an agreement for the oversight of interstate pipeline transportation when the Secretary finds that there are significant gaps in the regulatory authority of the State authority over intrastate pipeline transportation, or that continued participation by the State authority in the oversight of interstate pipeline transportation is not consistent with the Secretary's program or would adversely affect oversight of intrastate pipeline transportation, or that the State is not promoting activities that enable communities to live safely with pipelines.''.

(c) STATE GRANTS.—Section 60107 is amended by adding at the end the following:

''(e) SPECIAL INVESTIGATION OF INTERSTATE PIPELINE FACILITIES.—

''(1) Notwithstanding subsection (a) of this section, the Secretary may pay up to 100 percent of the cost of the personnel, equipment, and activities of a State authority acting as an agent of the Secretary in conducting a special investigation involved in monitoring new construction or investigating an incident, on an interstate gas pipeline facility or an interstate hazardous liquid pipeline facility.

''(2) This subsection shall become effective on October 1, 2001.''.

**SEC. 7. IMPROVED DATA AND DATA AVAILABILITY.**

(a) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—

(1) by inserting ''(1)'' before ''To'';

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) inserting before the last sentence the following:

''(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than five gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter and from rural gathering lines not regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, causes of the release, extent of damage to property and the environment, and the response undertaken to clean up the release.

''(3) During the course of an incident investigation, a person owning or operating a pipeline facility shall make records, reports, and information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation available to the Secretary within the time limits prescribed in a written request.''; and

(4) inserting ''(4)'' before ''The Secretary''.

(b) PENALTY AUTHORITIES.—

(1) Section 60122(a) is amended by striking ''60114(c)'' and substituting ''60117(b)(3)''.

(2) Section 60123(a) is amended by striking ''60114(c)'' and substituting ''60117(b)(3)''.

(c) Section 60117 is amended by adding at the end the following:

''(l) NATIONAL DEPOSITORY.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary may establish the depository through cooperative arrangements, and the Secretary shall make such information available for use by State and local planning and emergency response authorities and the public.''.

**SEC. 8. ENHANCED INVESTIGATION AUTHORITIES.**

(a) CLARIFICATION OF AUTHORITY.—Section 60117(c) is amended by striking ''decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter'' and inserting ''carry out the duties and responsibilities of this chapter. The Secretary may question an individual about matters relevant to an investigation, including such matters as the design, construction, operation, or maintenance of the system, the individual's qualifications, or the operator's response to an emergency''.

(b) EXPENSES OF INVESTIGATION.—Section 60117, as amended by section 7, is further amended by adding at the end the following:

''(m) EXTRAORDINARY EXPENSES OF INCIDENT INVESTIGATION.—The Secretary may, by regulation, establish procedures to recover the Secretary's costs incurred because of investigation of incidents from the operators of the pipeline facilities involved in the incidents. These costs may include travel costs and contract support for the investigation and monitoring of the corrective measures. All sums collected shall be deposited into the Pipeline Safety Fund and shall be available, to the extent and in the amount provided in advance in appropriations acts, to reimburse the Secretary for the costs of investigation and monitoring of the incidents. Such amounts are authorized to be appropriated to be available until expended.''.

**SEC. 9. INTERNATIONAL AUTHORITY.**

Section 60117, as amended by section 8, is further amended by adding at the end the following subsection:

''(n) GLOBAL SHARING OF ENVIRONMENTAL AND SAFETY INFORMATION.—Subject to guidance and direction of the Secretary of State, the Secretary of Transportation is directed to support international efforts to share information about the risks to the public and the environment from pipelines and the means of protecting against those risks. The extent of support should include a consideration of the benefits to the public from an increased understanding by the Secretary of technical issues about pipeline safety and environmental protection and from possible improvement in environmental protection outside the United States.''.

**SEC. 10. RISK MANAGEMENT DEMONSTRATION PROGRAM.**

Section 60126(a) is amended by adding at the end the following paragraph:

''(3) CONTINUATION OF INDIVIDUAL PROJECT.—Without regard to any recommendations made with respect to the risk management demonstration program under subsection (e) of this section, the Secretary may, by order, allow the continuation of an individual project begun under this program beyond the termination of the program, provided the Secretary finds that—

''(A) the pipeline operator has a clear and established record of compliance with respect to safety and environmental protection;

''(B) the project is achieving superior levels of public safety and environmental protection; and

''(C) the continuation would not extend the project more than four years from the date of the initial approval of the project.''.

**SEC. 11. SUPPORT FOR INNOVATIVE TECHNOLOGY DEVELOPMENT.**

Section 60117, as amended by section 9, is further amended by adding at the end the following subsection:

''(o) SUPPORT FOR INNOVATIVE TECHNOLOGY DEVELOPMENT.—

''(1) To the extent and in the amount provided in advance in appropriations acts, the Secretary of Transportation shall participate in the development of alternative technologies—

''(A) in fiscal year 2001 and thereafter, to—

''(i) identify outside force damage using internal inspection devices; and

''(ii) monitor outside-force damage to pipelines; and

''(B) In fiscal year 2002 and thereafter, to inspect pipelines that cannot accommodate internal inspection devices available on the date of the enactment of the Pipeline Safety and Community Protection Act of 2000.

''(2) The Secretary may support such technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.''.

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

(a) Section 60125 is amended—

(1) by striking subsections (a), (b), (c)(1), and (d) and inserting the following:

''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—

''(1) $30,118,000 for fiscal year 2001; and

''(2) such sums as may be necessary for fiscal years 2002, 2003, and 2004.

''(b) STATE GRANTS.—

''(1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107:

''(A) $17,019,000 for fiscal year 2001.

''(B) Such sums as may be necessary for fiscal years 2002, 2003, and 2004.''; and

(2) redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

Mr. SARBANES. Mr. President, I am pleased to join with my colleague, Senator HOLLINGS, in introducing, by request, the Pipeline Safety and Community Protection Act of 2000 proposed and announced yesterday by Vice President GORE. This legislation is an important step forward in improving safety and environmental protection in oil and gas pipelines.

Mr. President, last Friday night, the State of Maryland experienced a major oil spill—one its worst spills in many years. More than 110,000 gallons of No. 2 oil leaked from a pipe at Pepco's Chalk Point Generating Station into Swanson Creek in Prince Georges County. Bad weather and high winds exacerbated the problem and spread the spill into the Patuxent River. It has now affected some 8 miles of shoreline, acres of sensitive wetland habitat, and dozens of wildlife in three counties along the Patuxent.

Six federal agencies—EPA, the U.S. Coast Guard, Fish and Wildlife Service, National Oceanic and Atmospheric Administration, U.S. Department of Transportation and the National Transportation Safety Board—are on site coordinating clean-up activities and investigations into the causes of the leak. The Maryland Departments of the Environment and Natural Resources have taken steps to protect and rehabilitate impacted wildlife and to restrict harvesting in clam and oyster beds in the area. Pepco crews and contractors have recovered more than 70,000 gallons of the spilled oil. But recovering or cleaning up the remaining oil will be much more difficult and its cumulative impact on the environment will not be known for months, if not years. The Federal and State agencies have an important responsibility to ensure that Pepco does everything possible to clean up the spill and remediate the environmental and economic damage. But an aggressive clean-up effort must be accompanied with a comprehensive program to prevent such spills from occurring in the first place. While the precise cause of this oil leak is not yet known and is still under investigation, steps can and must be taken to help detect problems before pipelines fail and to minimize the environmental and other consequences of a failure.

The Pipeline Safety and Community Protection Act being introduced today would reauthorize and enhance the U.S. Department of Transportation's pipeline safety program by increasing inspection and testing of pipeline integrity. It would require pipeline operators to take extra precautions in populated or environmentally sensitive areas, such as the area where the Pepco spill occurred. It would strengthen enforcement authorities by expanding penalties for violations and compliance monitoring by Federal and State investigators. It would expand research into new technologies for monitoring pipelines and detecting leaks. Finally, it would strengthen Community-Right-to-Know and reporting requirements on releases and authorize additional funding for the Department's and State pipeline safety activities.

Mr. President, this legislation is strongly supported by the State of Maryland and represents a constructive step forward in enhancing safety and environmental protection in pipeline transportation. I look forward to working with the members of the Commerce Committee as they consider this and other proposals to reauthorize the pipeline safety program.

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By Mr. MURKOWSKI (by request):

S. 2410. A bill to increase the authorization of appropriations for the Reclamation Safety of Dams Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

AUTHORIZATION INCREASE FOR THE RECLAMATION SAFETY OF DAMS ACT

Mr. MURKOWSKI. Mr. President, I send to the desk, for appropriate reference, legislation submitted by the administration to increase the authorization of appropriations for the Bureau of Reclamation's Safety of Dams program. Let me emphasize that I am introducing this legislation at the request of the administration. Neither I nor any other member of the Committee on Energy and Natural Resources has taken a position on the merits of the legislation at this time. I understand some water users have expressed concerns with this legislation, and I want to assure them that the Water and Power Subcommittee, to which this bill will be referred, will have a hearing on the legislation so that they can make their concerns a part of the record and address them in the legislative process. Ensuring the safety of dams under the jurisdiction of the Bureau of Reclamation is very important but is must be done in a way that ensures safety at Reclamation facilities while not causing undue financial hardship for project beneficiaries. I ask unanimous consent that the letter of transmittal from the administration and a section-by-section of the legislation that the administration prepared be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
*Washington, DC, August 5, 1999.*

Hon. ALBERT GORE,
*President of the Senate, Washington, DC.*

DEAR MR. PRESIDENT: Enclosed is draft legislation to increase by $380,000,000 the authorized cost ceiling for the Bureau of Reclamation's dam safety program authorized program authorized in Public Law 95–578 and Public Law 98–404. I would appreciate your assistance in seeing that this legislation is introduced, referred to the appropriate Congressional Committee for consideration, and enacted.

The Bureau of Reclamation's dam safety program is designed to ensure that its facilities are operated in a safe and reliable condition. The purpose of the program is to protect the public, property and natural resources downstream of Reclamation structures.

The Bureau of Reclamation expends approximately $60 million per year for dam safety purposes and estimates that the existing $650,000,000 cost ceiling will be exceeded in Fiscal Year 2001. The enclosed legislation is necessary to continue funding this important program.

In addition to increasing the authorized cost ceiling, the legislation would make a few important changes to the dam safety program. Under existing law, irrigators are required to pay a portion of the dam safety costs within 50 years without interest. The draft bill would amend the statute to charge interest on the dam safety costs allocated for irrigation purposes, This makes irrigation repayment terms for dam safety activities consistent with municipal and industrial water supply.

Existing law also requires the Bureau of Reclamation to send a dam modifications report to Congress for dam safety work costing more than $750,000. The report must rest before Congress for 60 legislative days prior to Reclamation obligating funds for dam safety construction, The attached legislation would raise the threshold for a Congressional report to $1.2 million, reduce to 30 calendar days the time required for a dam safety modification report to rest in Congress prior to Reclamation commencing dam safety repair work.

A section-by-section analysis of the legislation also is attached. Thank you for your consideration of this request.

A similar package has been transmitted to the Speaker of the House of Representatives. If you have any questions concerning this

legislation, please contact James Hess, Acting Chief, Congressional and Legislative Affairs Group for the Bureau of Reclamation, at 202–208–5840.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal from the standpoint of the administration's program.

Sincerely,

ELUID L. MARTINEZ,
*Commissioner.*

Enclosure

SECTION-BY-SECTION ANALYSIS

Section (A)(1). Makes Federal dam safety assistance unavailable for costs incurred because the operating entity does not adequately maintain the structure.

Section 1(A)(2)(a). Makes the additional $380 million authorized to be appropriated by Section 1(B)(1) subject to the 15 percent reimbursability requirement.

Section 1(A(2)(b). Strikes the existing provision that limits repayment of the costs allocated to irrigation to the irrigators' ability to pay.

Section 1(A)(2)(c)–(d). Renumbers the subsections of existing Section 4.

Section 1(A)(2)(e). Existing law requires that dam safety costs allocated to certain purposes, including municipal, industrial, and power, but not including irrigation, be repaid with interest. This provision includes irrigation costs among those to be repaid with interest. Furthermore, costs allocated to irrigation under this Act should be repaid by the irrigators without assistance from power revenues.

Section 1(A)(2)(f). Explicitly provides that costs allocated under this Act to project purposes will be repaid with interest and without regard to water users' ability to pay, thereby eliminating any assistance from power users to water users.

Section 1(A)(3). Authorizes the Secretary to use monies received pursuant to a repayment contract at any time prior to completion of the dam safety construction work.

Section 1(B)(1). Authorizes the appropriation of an additional $380 million (indexed for inflation) for dam safety.

Section 1(B)(2). Increases to $1,200,000 (indexed for inflation) the threshold amount of triggering when the Bureau of Reclamation must send a modification report to Congress prior to obligating funds for dam safety construction. Existing law requires a report for any obligation exceeding $750,000.

Section 1(B)(3). Reduces from 60 legislative days to 30 calendar days the time that a dam safety modification report must lie before Congress before the Bureau of Reclamation can obligate funds for dam safety construction.

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By Mr. DASCHLE (for himself, Mr. LEAHY, Mr. HARKIN, Mr. CONRAD, Mr. DORGAN, Mr. JOHNSON, Mr. FEINGOLD, Mr. KOHL, Mr. KERREY, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. LEVIN, and Mr. JEFFORDS)

S. 2411. A bill to enhance competition in the agricultural sector and to protect family farms and ranches and rural communities from unfair, unjustly discriminatory, or deceptive practices by agribusinesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARMERS AND RANCHERS FAIR COMPETITION ACT OF 2000

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2411

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS**

(a) SHORT TITLE.—This Act may be cited as the ''Farmers and Ranchers Fair Competition Act of 2000''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:



**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Congressional Joint Economic Committee data suggests that over the last 15 years, agribusiness profits have come almost exclusively out of producer income, rather than from increased retail prices. Given the lack of market power of producers, this data raises the question of whether the trend has been a natural market development or is instead a sign of market failure.

(2) Most economists agree that in the last 15 years the real market price for a market basket of food has increased by approximately 3 percent, while the farm value of that food has fallen by approximately 38 percent. Over that period, marketing costs have decreased by 15 percent, which should have narrowed rather than widened the gap.

(3) There is significant concern that increasingly vertically integrated multinational corporations, especially those that own broad biotechnology patents, may be able to exert unreasonable and excessive market power in the future by acquiring companies that own other broad biotechnology patents.

(4) The National Association of Attorneys General is very concerned with the high degree of economic concentration in the agricultural sector and the great potential for anticompetitive practices and behavior. They estimate the top 4 meat packing firms control over 80 percent of steer and heifer slaughter, over 55 percent of hog slaughter, and over 65 percent of sheep slaughter. Increased concentration in the dairy procurement and processing sector is also raising significant concerns.

(5) In the grain industry, United States Department of Agriculture reports that the top 4 firms controlled 56 percent of flour milling, 73 percent of wet corn milling, 71 percent of soybean milling, and 62 percent of cotton seed oil milling.

(6) Moreover, the figures in paragraphs (4) and (5) underestimate true levels of concentration and potential market power because they fail to reflect the web of unreported and difficult to trace joint ventures, strategic alliances, interlocking directorates, and other partial ownership arrangements that link many large corporations.

(7) Concentration of market power also has the effect of increasing the transfer of investment, capital, jobs, and necessary social services out of rural areas to business centers throughout the world. Many individuals representing a wide range of expertise have expressed concern with the potential implications of this trend for the greater public good.

(8) The recent increase in contracting for the production or sale of agricultural commodities, such as livestock and poultry, is a cause for concern because of the significant bargaining power the buyers of these products or services wield over individual farmers and ranchers.

(9) Transparent, freely accessible, and competitive markets are being supplanted by transfer prices set within vertically integrated firms and by the increasing use of private contracts.

(10) Agribusiness firms are showing record profits at the same time that farmers and ranchers are struggling to survive an ongoing price collapse and erratic price trends.

(11) The efforts of farmers and ranchers to improve their market position is hampered by—

(A) extreme disparities in bargaining power between agribusiness firms and the hundreds of thousands of individual farmers and ranchers that sell products to them;

(B) the rapid increase in the use of private contracts that disrupt price discovery and can unfairly disadvantage producers;

(C) the extreme market power of agribusiness firms and alleged anticompetitive practices in the industry;

(D) shrinking opportunities for market access by producers; and

(E) the direct and indirect impact these factors have on the continuing viability of thousands of rural communities across the country.

(b) PURPOSES.—The purposes of this Act are to—

(1) enhance fair and open competition in rural America, thereby fostering innovation and economic growth;

(2) permit the Secretary to take actions to enhance the bargaining position of family farmers and ranchers, and to promote the viability of rural communities nationwide;

(3) protect family farms and ranches from—

(A) unfair, unjustly discriminatory, or deceptive practices or devices;

(B) false or misleading statements;

(C) retaliation related to statements lawfully provided; and

(D) other unfair trade practices employed by processors and other agribusinesses; and

(4) permit the Secretary to take actions to enhance the viability of rural communities nationwide.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) AGRICULTURAL COOPERATIVE.—The term ''agricultural cooperative'' means an association of persons engaged in the production, marketing, or processing of an agricultural commodity that meets the requirements of the Act of February 18, 1922, ''An Act to authorize association of producers of agricultural products'' (7 U.S.C. 291 et seq.; 42 Stat. 388) (commonly known as the ''Capper-Volstead Act'').

(3) BROKER.—The term ''broker'' means any person engaged in the business of negotiating sales and purchases of any agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, except that no person shall be considered a broker if the person's sales of such commodities are not in excess of $1,000,000 per year.

(4) COMMISSION MERCHANT.—The term ''commission merchant'' means any person engaged in the business of receiving in interstate or foreign commerce any agricultural commodity for sale, on commission, or for or on behalf of another, except that no person

shall be considered a commission merchant if the person's sales of such commodities are not in excess of $1,000,000 per year.

(5) DEALER.—The term ''dealer'' means—

(A) any person (except an agricultural cooperative) engaged in the business of buying, selling, or marketing agricultural commodities in wholesale or jobbing quantities, as determined by the Secretary, in interstate or foreign commerce, except—

(i) no person shall be considered a dealer with respect to sales or marketing of any agricultural commodity of that person's own raising provided such sales or marketing of such agricultural commodities do not exceed $10,000,000 per year; and

(ii) no person shall be considered a dealer who buys, sells, or markets less than $1,000,000 per year of such commodities; and

(B) an agricultural cooperative which sells or markets agricultural commodities of its members' own production if such agricultural cooperative sells or markets more than $1,000,000 of its members' production per year of such commodities.

(6) PROCESSOR.—The term ''processor'' means—

(A) any person (except an agricultural cooperative) engaged in the business of handling, preparing, or manufacturing (including slaughtering) of an agricultural commodity or the products of such agricultural commodity for sale or marketing in interstate or foreign commerce for human consumption except—

(i) no person shall be considered a processor with respect to the handling, preparing, or manufacturing (including slaughtering) of an agricultural commodity of that person's own raising provided such sales or marketing of such agricultural commodities do not exceed $10,000,000 per year; and

(ii) no person who handles, prepares, or manufactures (including slaughtering) an agricultural commodity in an amount less than $1,000,000 per year shall be considered a processor; and

(B) an agricultural cooperative which processes agricultural commodities of its members' own production if such agricultural cooperative processes more than $1,000,000 of its members' production of such commodities per year.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

**SEC. 4. PROHIBITIONS AGAINST UNFAIR PRACTICES IN TRANSACTIONS INVOLVING AGRICULTURAL COMMODITIES.**

(a) PROHIBITIONS.—It shall be unlawful in, or in connection with, any transaction in interstate or foreign commerce for any dealer, processor, commission merchant, or broker—

(1) to engage in or use any unfair, unreasonable, unjustly discriminatory, or deceptive practice or device in the marketing, receiving, purchasing, sale, or contracting for the production of any agricultural commodity;

(2) to make or give any undue or unreasonable preference or advantage to any particular person or locality or subject any particular person or locality to any undue or unreasonable disadvantage in connection with any transaction involving any agricultural commodity;

(3) to make any false or misleading statement in connection with any transaction involving any agricultural commodity that is purchased or received in interstate or foreign commerce, or involving any production contract, or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction or production contract;

(4) to retaliate against or disadvantage, or to conspire to retaliate against or disadvantage, any person because of statements or information lawfully provided by such person to any person (including to the Secretary or to a law enforcement agency) regarding alleged improper actions or violations of law by such dealer, processor, commission merchant, or broker (unless such statements or information are determined to be libelous or slanderous under applicable State law);

(5) to include as part of any new or renewed agreement or contract a right of first refusal, or to make any sale or transaction contingent upon the granting of a right of first refusal, until 180 days after the General Accounting Office study under section 8 is complete; or

(6) to offer different prices contemporaneously for agricultural commodities of like grade and quality (except commodities regulated by the Perishable Agricultural Commodities Act (7 U.S.C. 181 et seq.)) unless—

(A) the commodity is purchased in a public market through a competitive bidding process or under similar conditions which provide opportunities for multiple competitors to seek to acquire the commodity;

(B) the premium or discount reflects the actual cost of acquiring a commodity prior to processing; or

(C) the Secretary has determined that such types of offers do not have a discriminatory impact against small volume producers.

(b) VIOLATIONS.—

(1) COMPLAINTS.—Whenever the Secretary has reason to believe that any dealer, processor, commission merchant, or broker has violated any provision of subsection (a), the Secretary shall cause a complaint in writing to be served on that person or persons, stating the charges in that respect, and requiring the dealer, processor, commission merchant, or broker to attend and testify at a hearing to be held not sooner than 30 days after the service of such complaint.

(2) HEARING.—

(A) IN GENERAL.—The Secretary may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require the attendance and testimony of witnesses and the production of such accounts, records, and memoranda, as the Secretary deems necessary, for the determination of the existence of any violation of this subsection.

(B) RIGHT TO HEARING.—A dealer, processor, commission merchant, or broker may request a hearing if the dealer, processor, commission merchant, or broker is subject to penalty for unfair conduct, under this subsection.

(C) RESPONDENTS RIGHTS.—During a hearing the dealer, processor, commission merchant, or broker shall be given, pursuant to regulations issued by the Secretary, the opportunity—

(i) to be informed of the evidence against such person;

(ii) to cross-examine witnesses; and

(iii) to present evidence.

(D) HEARING LIMITATION.—The issues of any hearing held or requested under this section shall be limited in scope to matters directly related to the purpose for which such hearing was held or requested.

(3) REPORT OF FINDING AND PENALTIES.—

(A) IN GENERAL.—If, after a hearing, the Secretary finds that the dealer, processor, commission merchant, or broker has violated any provisions of subsection (a), the Secretary shall make a report in writing which states the findings of fact and includes an order requiring the dealer, processor, commission merchant, or broker to cease and desist from continuing such violation.

(B) CIVIL PENALTY.—The Secretary may assess a civil penalty not to exceed $100,000 for each such violation of subsection (a).

(4) TEMPORARY INJUNCTION AND FINALITY AND APPEALABILITY OF AN ORDER.—

(A) TEMPORARY INJUNCTION.—At any time after a complaint is filed under paragraph (1), the court, on application of the Secretary, may issue a temporary injunction, restraining to the extent it deems proper, the dealer, processor, commission merchant, or broker and such person's officers, directors, agents, and employees from violating any of the provisions of subsection (a).

(B) APPEALABILITY OF AN ORDER.—An order issued pursuant to this subsection shall be final and conclusive unless within 30 days after service of the order, the dealer, processor, commission merchant, or broker petitions to appeal the order to the court of appeals for the circuit in which such person resides or has its principal place of business or the District of Columbia Circuit Court of Appeals.

(C) DELIVERY OF PETITION.—The clerk of the court shall immediately cause a copy of the petition filed under subparagraph (B) to be delivered to the Secretary and the Secretary shall thereupon file in the court the record of the proceedings under this subsection.

(D) PENALTY FOR FAILURE TO OBEY AN ORDER.—Any dealer, processor, commission merchant, or broker which fails to obey any order of the Secretary issued under the provisions of this section after such order or such order as modified has been sustained by the court or has otherwise become final, shall be fined not less than $5,000 and not more than $100,000 for each offense. Each day during which such failure continues shall be deemed a separate offense.

(5) RECORDS.—

(A) IN GENERAL.—Every dealer, processor, commission merchant, and broker shall keep for a period of not less than 5 years such accounts, records, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) and fully and correctly disclose all transactions involved in the business of such person, including the true ownership of the business.

(B) FAILURE TO KEEP RECORDS OR ALLOW THE SECRETARY TO INSPECT RECORDS.—Failure to keep, or allow the Secretary to inspect records as required by this paragraph shall constitute an unfair practice in violation of subsection (a)(1).

(C) INSPECTION OF RECORDS.—The Secretary shall have the right to inspect such accounts, records, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) of any dealer, processor, commission merchant, and broker as may be material to the investigation of any alleged violation of this section or for the purpose of investigating the business conduct or practices of an organization with respect to such dealer, processor, commission merchant or broker.

(c) COMPENSATION FOR INJURY.—

(1) ESTABLISHMENT OF THE FAMILY FARMER AND RANCHER CLAIMS COMMISSION.—

(A) IN GENERAL.—The Secretary shall appoint 3 individuals to a commission to be known as the ''Family Farmer and Rancher Claims Commission'' (in this subsection referred to as the ''Commission'') to review claims of family farmers and ranchers who have suffered financial damages as a result of any violation of this section as determined by the Secretary pursuant to subsection (b)(3).

(B) TERM OF SERVICE.—The member of the Commission shall serve 3-year terms which may be renewed. The initial members of the Commission may be appointed for a period of less than 3 years, as determined by the Secretary.

(2) REVIEW OF CLAIMS.—

(A) SUBMISSION OF CLAIMS.—Family farmers and ranchers damaged as a result of a violation of this section as determined by the Secretary, pursuant to subsection (c)(3) may preserve the right to claim financial damages under this section by filing a claim pursuant to regulations promulgated by the Secretary.

(B) DETERMINATION.—Based on a review of such claims, the Commission shall determine the amount of damages to be paid, if any, as a result of the violation.

(C) REVIEW.—The decisions of the Commission under this paragraph shall not be subject to judicial review except to determine that the amount of damages to be paid is consistent with the published regulations of the Secretary that establish the criteria for implementing this subsection.

(3) FUNDING.—

(A) IN GENERAL.—Funds collected from civil penalties pursuant to this section shall be transferred to a special fund in the Treasury, shall be made available to the Secretary without further appropriation, and shall remain available until expended to pay the expenses of the Commission and the claims described in this subsection.

(B) AUTHORIZATION OF APPROPRIATION.—In addition to the funds described in subparagraph (A), there are authorized to be appropriated such sums as may be necessary to carry out this section.

(4) NO PRECLUSION OF PRIVATE CLAIMS.—By filing an action under this subsection, a family farmer or rancher is not precluded from bringing a cause of action against a dealer, processor, commission, merchant, or broker in any court of appropriate jurisdiction.

(d) AUTHORITY OF THE SECRETARY.—Not later than 180 days after the date of enactment of this section, the Secretary and the Attorney General shall develop and implement a plan to enable, where appropriate, the Secretary to file civil actions, including temporary injunctions, to enforce orders issued by the Secretary under this Act.

**SEC. 5. REPORTS OF THE SECRETARY ON POTENTIAL UNFAIR PRACTICES.**

(a) FILING PREMERGER NOTICES WITH THE SECRETARY.—No dealer, processor, commission merchant, broker, operator of a warehouse of agricultural commodities, or other agricultural related business shall merge or acquire, directly or indirectly, any voting securities or assets of any other dealer, processor, commission merchant, broker, operator of a warehouse of agricultural commodities, or other agricultural related business unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules promulgated by the Secretary if—

(1) any voting securities or assets of the dealer, processor, commission merchant, broker, operator of a warehouse of agricultural commodities or other agricultural related business with annual net sales or total assets of $10,000,000 or more are being acquired by a dealer, processor, commission merchant, broker, or operator of a warehouse of agricultural commodities, or other agricultural related business which has total assets or annual net sales of $100,000,000 or more; and

(2) any voting securities or assets of a dealer, processor, commission merchant, broker, operator of a warehouse of agricultural commodities, or other agricultural related business with annual net sales or total assets of $100,000,000 or more are being acquired by any dealer, processor, commission merchant, broker, operator of a warehouse of agricultural commodities, or agriculture related business with annual net sales or total assets of $10,000,000 or more and as a result of such acquisition, if the acquiring person would hold—

(A) 15 percent or more of the voting securities or assets of the acquired person; or

(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

(b) REVIEW OF THE SECRETARY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may conduct a review of any merger or acquisition described in subsection (a).

(2) EXCEPTION.—The Secretary shall conduct a review of any merger or acquisition described in subsection (a) upon a request from a member of Congress.

(c) ACCESS TO RECORDS.—The Secretary may request any information including any testimony, documentary material, or related information from a dealer, processor, commission merchant, broker, or operator of a warehouse of agricultural commodities, or other agricultural related business, pertaining to any merger or acquisition of any agriculture related business.

(d) PURPOSE OF REVIEW.—

(1) FINDINGS.—The review described in subsection (a) shall make findings whether the merger or acquisition could—

(A) be significantly detrimental to the present or future viability of family farms or ranches or rural communities in the areas affected by the merger or acquisition, pursuant to standards established by the Secretary; or

(B) lead to a violation of section 4(a) of this Act.

(2) REMEDIES.—The review may include a determination of possible remedies regarding how the parties of the merger or acquisition may take steps to modify their operations to address the findings described in paragraph (1).

(e) REPORT OF REVIEW.—

(1) PRELIMINARY REPORT.—After conducting the review described in this section, the Secretary shall issue a preliminary report to the parties of the merger or acquisition and the Attorney General or the Federal Trade Commission, as appropriate, which shall include findings and any remedies described in subsection (d)(2).

(2) FINAL REPORT.—After affording the parties described in paragraph (1) an opportunity for a hearing regarding the findings and any proposed remedies in the preliminary report, the Secretary shall issue a final report to the President and Attorney General or the Federal Trade Commission, as appropriate, with respect to the merger or acquisition.

(f) IMPLEMENTATION OF THE REPORT.—Not later than 120 days after the issuance of a final report described in subsection (e), the parties of the merger or acquisition affected by such report shall make changes to their operations or structure to comply with the findings and implement any suggested remedy or any agreed upon alternative remedy and shall file a response demonstrating such compliance or implementation.

(g) CONFIDENTIALITY OF INFORMATION.—Information used by the Secretary to conduct the review pursuant to this section provided by a party of the merger or acquisition under review or by a government agency shall be treated by the Secretary as confidential information pursuant to section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276), except that the Secretary may share any information with the Attorney General, the Federal Trade Commission, and a party seeking a hearing pursuant to subsection (e)(2) with respect to information relating to such party. The report issued under subsection (e) shall be available to the public consistent with the confidentiality provisions of this subsection.

(h) PENALTIES.—

(1) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty not to exceed $300,000 for the failure of a person to comply with the requirements of subsections (a) and (f). Such hearing shall be limited to the issue of the amount of the civil penalty.

(2) FAILURE TO FOLLOW AN ORDER.—If after being assessed a civil penalty in accordance with paragraph (1) a person continues to fail to meet the applicable requirements of subsections (a) and (f), the Secretary may, after affording the parties an opportunity for a hearing, assess a further civil penalty not to exceed $100,000 for each day such person continues such violation. Such hearing shall be limited to the issue of the additional civil penalty assessed under this paragraph.

**SEC. 6. PLAIN LANGUAGE AND DISCLOSURE REQUIREMENTS FOR CONTRACTS.**

(a) IN GENERAL.—Any contract between a family farmer or rancher and a dealer, processor, commission merchant, broker, operator of a warehouse of agricultural commodities, or other agricultural related business shall—

(1) be written in a clear and coherent manner using words with common and everyday meanings and shall be appropriately divided and captioned by various sections;

(2) disclose in a manner consistent with paragraph (1)—

(A) contract duration;

(B) contract termination;

(C) renegotiation standards;

(D) responsibility for environmental damage;

(E) factors to be used in determining performance payments;

(F) which parties shall be responsible for obtaining and complying with necessary local, State, and Federal government permits; and

(G) any other contract terms the Secretary determines is appropriate for disclosure; and

(3) not contain a confidentiality requirement barring a party of a contract from sharing terms of such contract (excluding trade secrets as applied in the Freedom of Information Act (5 U.S.C. 552 et seq.)) for the purposes of obtaining legal or financial advice or for the purpose of responding to a request from Federal or State agencies.

(b) PENALTIES.—

(1) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty not to exceed $100,000 for the failure of a person to comply with the requirements of this section. Such hearing shall be limited to the issue of the amount of the civil penalty.

(2) FAILURE TO FOLLOW AN ORDER.—If after being assessed a civil penalty in accordance with paragraph (1), a person continues to fail to meet the applicable requirements of this section, the Secretary may, after affording the parties an opportunity for a hearing, assess a further civil penalty not to exceed $100,000 for each day such person continues such violation. Such hearing shall be limited to the issue of the amount of the additional civil penalty assessed under this paragraph.

(c) IMPLEMENTATION.—The requirements imposed by this section shall be applicable to contracts entered into or renewed 60 days or subsequently after the date of enactment of this Act.

**SEC. 7. REPORT ON CORPORATE STRUCTURE.**

(a) IN GENERAL.—A dealer, processor, commission merchant, or broker with annual sales in excess of $100,000,000 shall annually file with the Secretary, a report which describes, with respect to both domestic and foreign activities; the strategic alliances; ownership in other agribusiness firms or agribusiness-related firms; joint ventures; subsidiaries; brand names; and interlocking boards of directors with other corporations, representatives, and agents that lobby Congress on behalf of such dealer, processor,

commission merchant, or broker, as determined by the Secretary. This subsection shall not be construed to apply to contracts.

(b) PENALTIES.—

(1) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty not to exceed $100,000 for the failure of a person to comply with the requirements of this section. Such a hearing shall be limited to the issue of the amount of the civil penalty

(2) FAILURE TO FOLLOW AN ORDER.—If after being assessed a civil penalty in accordance with paragraph (1) a person continues to fail to meet the applicable requirements of this section, the Secretary may, after affording the parties an opportunity for a hearing, assess a further civil penalty not to exceed $100,000 for each day such person continues such violation. Such hearing shall be limited to the amount of the additional civil penalty assessed under this paragraph.

**SEC. 8. MANDATORY FUNDING FOR STAFF.**

Out of the funds in the Treasury not otherwise appropriated, the Secretary of Treasury shall provide to the Secretary of Agriculture $7,000,000 in each of fiscal years 2002 through 2006, to hire, train, and provide for additional staff to carry out additional responsibilities under this Act, including a Special Counsel on Fair Market and Rural Opportunity, additional attorneys for the Office of General Counsel, investigators, economists, and support staff. Such sums shall be made available to the Secretary without further appropriation and shall be in addition to funds already made available to the Secretary for the purposes of this section.

**SEC. 9. GENERAL ACCOUNTING OFFICE STUDY.**

The Comptroller General of the United States, in consultation with the Attorney General, the Secretary, the Federal Trade Commission, the National Association of Attorney's General, and others, shall—

(1) study competition in the domestic farm economy with a special focus on protecting family farms and ranches and rural communities and the potential for monopsonistic and oligopsonistic effects nationally and regionally; and

(2) provide a report to the appropriate committees of Congress not later than 1 year after the date of enactment of this Act on—

(A) the correlation between increases in the gap between retail consumer food prices and the prices paid to farmers and ranchers and any increases in concentration among processors, manufacturers, or other firms that buy from farmers and ranchers;

(B) the extent to which the use of formula pricing, marketing agreements, forward contracting, and production contracts tend to give processors, agribusinesses, and other buyers of agricultural commodities unreasonable market power over their producer/suppliers in the local markets;

(C) whether the granting of process patents relating to biotechnology research affecting agriculture during the past 20 years has tended to overly restrict related biotechnology research or has tended to overly limit competition in the biotechnology industries that affect agriculture in a manner that is contrary to the public interest, or could do either in the future;

(D) whether acquisitions of companies that own biotechnology patents and seed patents by multinational companies have the potential for reducing competition in the United States and unduly increasing the market power of such multinational companies;

(E) whether existing processors or agribusiness have disproportionate market power and if competition could be increased if such processors or agribusiness were required to divest assets to assure that they do not exert this disproportionate market power over local markets;

(F) the extent of increase in concentration in milk processing, procurement and handling, and the potential risks to the economic well-being of dairy farmers, and to the National School Lunch program, and other Federal nutrition programs of that increase in concentration;

(G) the impact of mergers, acquisitions, and joint ventures among dairy cooperatives on dairy farmers, including impacts on both members and nonmembers of the merging cooperatives;

(H) the impact of the significant increase in the use of stock as the primary means of effectuating mergers and acquisitions by large companies;

(I) the increase in the number and size of mergers or acquisitions in the United States and whether some of such mergers or acquisitions would have taken place if the merger or acquisition had to be consummated primarily with cash, other assets, or borrowing; and

(J) whether agricultural producers typically appear to derive any benefits (such as higher prices for their products or any other advantages) from right-of-first-refusal provisions contained in purchase contracts or other deals with agribusiness purchasers of such products.

**SEC. 10. AUTHORITY TO PROMULGATE REGULATIONS.**

The Secretary of Agriculture shall have the authority to promulgate regulations to carry out the responsibilities of the Secretary under this Act.

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By Mr. MCCAIN:

S. 2412. A bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL TRANSPORTATION SAFETY BOARD AMENDMENTS ACT OF 2000

● Mr. MCCAIN. Mr. President, today I am introducing the National Transportation Safety Board Amendments Act of 2000. This bill proposes to reauthorize the National Transportation Safety Board (NTSB) through fiscal year 2003.

The NTSB is an independent agency charged with determining the probable cause of transportation accidents and promoting transportation safety. Among its many duties, the Board investigates accidents, conducts safety studies, and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents. In my view, the NTSB is one of our nation's most critical governmental agencies and I want to commend its excellent work.

Since its inception in 1967, the NTSB has investigated more than 110,000 aviation accidents, at least 10,000 other accidents in the surface modes and issued more than 11,000 safety recommendations. The Board's commitment to accident investigation and the development of safety recommendations to prevent accidents from recurring is indeed admirable. The NTSB staff works tirelessly, and in many cases, under the least desirable circumstances.

The NTSB's authorization expired last September. The Board has submitted a reauthorization proposal and the Senate Committee on Commerce, Science, and Transportation held a hearing last year to review the Board's request. The reauthorization legislation I am introducing is intended to provide the Board with the resources necessary to carry out its important safety investigatory duties and provide further assistance to the Board in its efforts to fulfill its mission.

The legislation would authorize the Board for Fiscal years 2000–2003. As the Board requested, the bill would provide significant funding increases over the level currently authorized. The Chairman of the Board has testified that these funds are necessary in order to insure that the NTSB continues to make timely and accurate determinations of the probable causes of accidents, formulate realistic and feasible safety recommendations, and respond to the families of victims of transportation disasters in a professional and compassionate manner following those tragedies. The legislation also would raise the Board's emergency fund to the level commensurate to that which has been appropriated in recent years.

The bill includes language requested by the Safety Board to require the withholding from public disclosure of voice and video recorder information for all modes of transportation comparable to the protections already statutorily provided for cockpit voice recorders (CVRs). This provision would be an important step in ensuring that railroad, maritime, and motor vehicle recorders are properly protected from unwarranted disclosure or alternative use.

The bill provides the Board with authority to establish reasonable rates of overtime pay for its employees directly involved in accident-related work both on-scene and investigative. This authority was requested in acknowledgment of the extensive time spent by NTSB staff in carrying out their duties and the Board's inability under current law to more fairly compensate these employees. I want to remind my colleagues that the Federal Aviation Administration and the Coast Guard already have been provided authority by Congress to administer similar personnel payment matters.

The Board's budget has dramatically increased over the years and this measure includes a number of financial accountability provisions. Currently, the NTSB is one of the few agencies of the Federal Government not required to have a Chief Financial Office (CFO). While the Board on its own initiative does have a CFO, this bill would make that position permanent. The legislation also statutorily authorizes the Chairman to establish annual travel budgets to govern Board Member non-accident travel. After concerns were raised last year over excessive Board Member travel by myself and others, the Chairman established annual budgets and procedures governing non-accident-related travel. His actions were an important step in addressing fiscal accountability at the Board and I believe

they should be continued in the future. Further, the bill would give the Inspector General of the Department of Transportation the authority to review the financial management and business operations of the Board to determine compliance with applicable Federal laws, rules, and regulations.

I have only taken time today to highlight a few sections of the bill. But I assure my colleagues that there are other provisions in the legislation designed to give the Safety Board the necessary tools to continue to fulfill its critical safety mission.

Mr. President. I urge my colleagues' support of this measure and look forward to bringing it to the full Senate for consideration in the near future.●

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By Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. THURMOND, Mr. BINGAMAN, Mr. JEFFORDS, Mr. SARBANES, Mr. COVERDELL, Mr. ROBB, Mr. SCHUMER, Mr. REED, and Mr. REID):

S. 2413. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify the procedures and conditions for the award of matching grants for the purchase of armor vests; to the Committee on the Judiciary.

BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 2000

● Mr. CAMPBELL. Mr. President, today Senator LEAHY and I are introducing the Bulletproof Vest Partnership Grant Act of 2000, a bill to expand an existing matching grant program to help State, tribal, and local jurisdictions purchase armor vests for the use by law enforcement officers. This bill represents another in a series of law enforcement legislative initiatives on which I have had the privilege to work with my friend and colleague from Vermont, Senator LEAHY. The Senator brings to the table invaluable experience in this area, from his distinguished service as a State's attorney in Vermont, a nationally recognized prosecutor, and as the ranking member of the Senate Judiciary Committee. We are pleased to be joined in this effort by the distinguished chairman of the Senate Judiciary Committee, Senator HATCH, and Senators THURMOND, BINGAMAN, JEFFORDS, SARBANES, COVERDELL, ROBB, SCHUMER, REED, and REID.

Two years ago, Congress passed and the President signed into law the Bulletproof Vest Partnership Grant Act of 1998 (P.L. 105–181), which we were privileged to introduce. This highly successful Department of Justice grant program has already funded 92,000 new bulletproof vests for police officers across the country.

There are far too many law enforcement officers who patrol our streets and neighborhoods without the proper protective gear against violent criminals. As a former deputy sheriff, I know first-hand the risks which law enforcement officers face every day on the front lines protecting our communities.

Today, more than ever, violent criminals have bulletproof vests and deadly weapons at their disposal. In fact, figures from the U.S. Department of Justice indicate that approximately 150,000 law enforcement officers—or 25 percent of the nation's 600,000 state and local officers—do not have access to bulletproof vests.

The evidence is clear that a bulletproof vest is one of the most important pieces of equipment that any law enforcement officer can have. Since the introduction of modern bulletproof material, the lives of more than 1,500 officers have been saved by bulletproof vests. In fact, the Federal Bureau of Investigation has concluded that officers who do not wear bulletproof vests are 14 times more likely to be killed by a firearm than those officers who do wear vests. Simply put, bulletproof vests save lives.

Unfortunately, many police departments do not have the resources to purchase vests on their own. The Bulletproof Vest Partnership Grant Act of 2000 would continue the partnership with state and local law enforcement agencies to make sure that every police officer who needs a bulletproof vest gets one. It would do so by authorizing up to $50 million per year for the grant program within the U.S. Department of Justice. In addition, the program would provide 50–50 matching grants to state and local law enforcement agencies and Indian tribes with under 100,000 residents to assist in purchasing bulletproof vests and body armor. Finally, this bill will make the purchase of stabproof vests eligible for grant awards.

While we know that there is no way to end the risks inherent to a career in law enforcement, we must do everything possible to ensure that officers who put their lives on the line every day also put on a vest. Body armor is one of the most important pieces of equipment an officer can have and often means the difference between life and death. The United States Senate can help, and I urge our colleagues to support prompt passage of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2413

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Bulletproof Vest Partnership Grant Act of 2000''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had the protection of an armor vest;

(2) according to studies, between 1985 and 1994, 709 law enforcement officers in the United States were killed in the line of duty;

(3) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing an armor vest is 14 times higher than for officers wearing an armor vest;

(4) according to studies, between 1985 and 1994, bullet-resistant materials helped save the lives of more than 2,000 law enforcement officers in the United States; and

(5) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite a decrease in the national crime rate, and has concluded that there is a ''public safety crisis in Indian country''.

**SEC. 3. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.**

(a) MATCHING FUNDS.—Section 2501(f) of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll(f) is amended—

(1) by striking ''The portion'' and inserting the following:

''(1) IN GENERAL.—The portion'';

(2) by striking ''subsection (a)'' and all that follows through the period at the end of the first sentence and inserting ''subsection (a)—

''(A) may not exceed 50 percent; and

''(B) shall equal 50 percent, if—

''(i) such grant is to a unit of local government with fewer than 100,000 residents;

''(ii) the Director of the Bureau of Justice Assistance determines that the quantity of vests to be purchased with such grant is reasonable; and

''(iii) such portion does not cause such grant to violate the requirements of subsection (e).''; and

(3) by striking ''Any funds'' and inserting the following:

''(2) INDIAN ASSISTANCE.—Any funds''.

(b) ALLOCATION OF FUNDS.—Section 2501(g) of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll(g)) is amended to read as follows:

''(g) ALLOCATION OF FUNDS.—Funds available under this part shall be awarded, without regard to subsection (c), to each qualifying unit of local government with fewer than 100,000 residents. Any remaining funds available under this part shall be awarded to other qualifying applicants.''.

(c) APPLICATIONS.—Section 2502 of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll–1) is amended by adding at the end the following:

''(d) APPLICATIONS IN CONJUNCTION WITH PURCHASES.—If an application under this section is submitted in conjunction with a transaction for the purchase of armor vests, grant amounts under this section may not be used to fund any portion of that purchase unless, before the application is submitted, the applicant—

''(1) receives clear and conspicuous notice that receipt of the grant amounts requested in the application is uncertain; and

''(2) expressly assumes the obligation to carry out the transaction, regardless of whether such amounts are received.''.

(d) DEFINITION OF ARMOR VEST.—Section 2503(1) of part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll–2(1)) is amended—

(1) by striking ''means body armor'' and inserting the following: ''means—

''(A) body armor'';

(2) by adding ''or'' at the end; and

(3) by adding at the end the following:

''(B) body armor that has been tested through the voluntary compliance testing program, and found to meet or exceed the requirements of NIJ Standard 0115.00, or any revision of such standard;''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(23) of title I of the Omnibus

Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by inserting before the period at the end the following: '', and $50,000,000 for each of fiscal years 2002 through 2004''.●

Mr. LEAHY. Mr. President, I am proud to join the Senior Senator from Colorado in introducing the Bulletproof Vest Partnership Grant Act of 2000. We worked together closely and successfully with the Chairman of the Judiciary Committee in the last Congress to pass the Bulletproof Vest Partnership Grant Act of 1998 into law. I am pleased that Senator HATCH is again an original cosponsor of this bill. I am also pleased that Senators SCHUMER, REID of Nevada, SARBANES, ROBB, BINGAMAN, THURMOND, COVERDELL, and REED of Rhode Island are joining us as original cosponsors.

According to the Federal Bureau of Investigation, more than 40 percent of the 1,182 officers killed by a firearm in the line of duty since 1980 could have been saved if they had been wearing body armor. Indeed, the FBI estimates that the risk of fatality to officers while not wearing body armor is 14 times higher than for officers wearing it.

To better protect our Nation's law enforcement officers, Senator CAMPBELL and I introduced the Bulletproof Vest Partnership Grant Act of 1998. President Clinton signed our legislation into law on June 16, 1998 (public law 105–181). The law created a $25 million, 50 percent matching grant program within the Department of Justice to help state and local law enforcement agencies purchase body armor for fiscal years 1999–2001.

In its first year of operation, the Bulletproof Vest Partnership Grant Program funded 92,000 new bulletproof vests for our Nation's police officers, including 361 vests for Vermont police officers. Applications are now available at the program's web site at http://vests.ojp.gov/ for this year's funds. The entire process of submitting applications and obtaining federal funds is completed through this web site.

The Bulletproof Vest Partnership Grant Act of 2000 builds on the success of this program by doubling its annual funding to $50 million for fiscal years 2002–2004. It also improves the program by guaranteeing jurisdictions with fewer than 100,000 residents receive the full 50–50 matching funds because of the tight budgets of these smaller communities and by making the purchase of stab-proof vests eligible for grant awards to protect corrections officers and sheriffs who face violent criminals in close quarters in local and county jails.

More than ever before, police officers in Vermont and around the country face deadly threats that can strike at any time, even during routine traffic stops. Bulletproof vests save lives. It is essential that we update this law so that many more of our officers who are risking their lives everyday are able to protect themselves.

In the last Congress, we created the Bulletproof Vest Partnership Grant Program in part in response to the tragic Drega incident along the Vermont and New Hampshire border. On August 19, 1997, Federal, State and local law enforcement authorities in Vermont and New Hampshire had cornered Carl Drega, after hours of hot pursuit. This madman had just shot to death two New Hampshire state troopers and two other victims earlier in the day. In a massive exchange of gunfire with the authorities, Drega lost his life.

During that shootout, all federal law enforcement officers wore bulletproof vests, while some state and local officers did not. For example, Federal Border Patrol Officer John Pfeifer, a Vermonter, who was seriously wounded in the incident. If it was not for his bulletproof vest, I would have been attending Officer Pfeifer's wake instead of visiting him, and meeting his wife and young daughter in the hospital a few days later. I am relieved that Officer John Pfeifer is doing well and is back on duty today.

The two New Hampshire state troopers who were killed by Carl Drega were not so lucky. They were not wearing bulletproof vests. Protective vests might not have been able to save the lives of those courageous officers because of the high-powered assault weapons used by this madman. We all grieve for the two New Hampshire officers who were killed. Their tragedy underscore the point that all of our law enforcement officers, whether federal, state or local, deserve the protection of a bulletproof vest. With that and lesser-known incidents as constant reminders, I will continue to do all I can to help prevent loss of life among our law enforcement officers.

The Bulletproof Vest Partnership Grant Act of 2000 will provide state and local law enforcement agencies with more of the assistance they need to protect their officers. Our bipartisan legislation enjoys the endorsement of many law enforcement organizations, including the Fraternal Order of Police and the National Sheriffs' Association. In my home State of Vermont, the bill enjoys the strong support of the Vermont State Police, the Vermont Police Chiefs Association and many Vermont sheriffs, troopers, game wardens and other local and state law enforcement officials.

Since my time as a State prosecutor, I have always taken a keen interest in law enforcement in Vermont and around the country. Vermont has the reputation of being one of the safest states in which to live, work and visit, and rightly so. In no small part, this is due to the hard work of those who have sworn to serve and protect us. And we should do what we can to protect them, when a need like this one comes to our attention.

Our Nation's law enforcement officers put their lives at risk in the line of duty everyday. No one knows when danger will appear. Unfortunately, in today's violent world, even a traffic stop may not necessarily be ''routine.'' Each and every law enforcement officer across the Nation deserves the protection of a bulletproof vest.

I look forward to working with my colleagues to ensure that each and every law enforcement agency in Vermont and across the Nation can afford basic protection for their officers.

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By Mr. WELLSTONE:

S. 2414. A bill to combat trafficking of persons, especially into the sex trade, slavery, and slavery-like conditions, in the United States and countries around the world through prevention, through prosecution and enforcement against traffickers, and through protection and assistance to victims of trafficking; to the Committee on Foreign Relations.

TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Mr. WELLSTONE. Mr. President, I rise to introduce a bill today. I would like to thank my colleague, Senator BROWNBACK, for his superb work. It is called the Trafficking Victims Protection Act of 2000. Basically, this is legislation I am doing together with Senator BROWNBACK. We are very hopeful we will have strong support in the Senate Foreign Relations Committee, starting with the chairman.

The long and the short of it, colleagues, is, though, it is hard to believe, in the year 2000, there are maybe 50,000 women and children trafficked to our country, maybe as many as 2 million worldwide.

It is a dark, dark feature of this new world economy, where women and children are basically responding to ads, going to other countries, believing they will find employment; and they are forced into prostitution, they are forced into labor, and the conditions are absolutely atrocious.

It is unbelievable what has happened to these women and children. Therefore, we put an emphasis on, No. 1, prevention, to make sure that through AID we get information out to people in other countries, so women and children are not entrapped in this way.

No. 2, we want to make sure there are alternatives, such as good microloan programs, like NGOs for women.

No. 3, we put an emphasis on how we can provide some protection, which has to do with making sure if women step forward they are not automatically deported. There would be an extension of their visa so they would be able to speak out without worrying about being deported from our country. We would make sure there is treatment for women who have gone through this living hell.

Finally, there would be prosecution. Making it crystal clear to those who are engaged in trafficking, you are going to be hit with stiff financial penalties.

Senator FEINSTEIN, who is on the floor, has been a strong supporter of trying to do something about this, and to make sure that if you are going to traffic a child under the age of 14 for

forced prostitution, you are going to serve a life sentence in prison.

We are going to call on the international community to take this seriously. I believe there will be strong support in the Senate. It would be a powerful and important human rights piece of legislation.

I am proud to introduce this legislation today. I think we can move it in committee. I think we can have strong bipartisan support. I thank Senator BROWNBACK, Senator FEINSTEIN, Senator BOXER, and others for their interest.

Mr. President, I am here today to introduce legislation to help end the horrific crime of trafficking in persons, particularly women and children, for the purposes of sexual exploitation and forced labor. This egregious human rights violation—and we must acknowledge trafficking in persons as the gross human rights abuse that it is—is a worldwide problem that must be confronted in domestic legislation as we continue to fight it on the international front.

At this very moment the administration is involved in negotiations in Vienna to strengthen international efforts to combat trafficking. We too must do our part. We need to enact a comprehensive trafficking bill into law in this Congress. Senator BROWNBACK and I have worked together closely to develop the Trafficking Victims Protection Act of 2000, and we agree on every provision of the bill except for one. We are here together today to introduce separate trafficking bills but to relay to you the truly bipartisan effort this has been. Senator BROWNBACK, I look forward to continuing this effort as our respective bills move through the committee and to the floor.

Despite increasing governmental and international interest, trafficking in persons continues to be one of the darkest aspects of globalization of the world economy, becoming more insidious and more widespread everyday. It is not just a problem that takes place on distant shores, as many of us have been led to believe. A recent CIA analysis of the international trafficking of women to the United States reports that as many as 50,000 women and children each year are brought into the United States and forced to work as prostitutes, forced laborers, and servants. Others credibly estimate that the number is probably much higher than that.

In a hearing last week, I heard the almost unbelievable testimony of several women who had been victims of trafficking. But, I say almost unbelievable because I heard the truth directly from the mouths of those who have been hurt the most. One victim trafficked for sex from Mexico to Florida at the age of 14 told,

Because I was a virgin, the men decided to initiate me by raping me again and again, to teach me how to have sex * * * Because I was so young, I was always in demand with the customers. It was awful. Although the men were supposed to wear condoms, some didn't so I eventually became pregnant and was forced to have an abortion.

I am here today to say that one victim is one too many. We have a serious problem that must be addressed.

The Trafficking Victims Protection Act of 2000 is a comprehensive bill that addresses the three P's of trafficking: it aims to prevent trafficking in persons, provides protection and assistance to those who have been trafficked, and provides for tough prosecution and punishment of those responsible for trafficking.

This bill addresses the underlying problems which fuel the trafficking industry by promoting public awareness campaigns, and initiatives to enhance economic opportunity, such as microcredit lending programs and skills training, for those most susceptible to trafficking. It provides for the establishment of programs designed to assist in the safe reintegration of victims into their community, and ensures that such programs address the physical and mental health needs of trafficking victims. In fact, the trauma that results from being trafficked is not unlike that of someone who has been tortured, and victims of trafficking deserve similar assistance.

This bill also provides immigration relief and allows victims of trafficking the time necessary to bring charges against those responsible for their condition. In the United States, many trafficking victims are deported for not having the appropriate legal documents when, in fact, it is often the trafficker who has given the victim false documents, or held the victim's identifying documents so that he or she could not move freely. This bill addresses this unintended result of the law. This measure enhances our existing legal structures, criminalizing all forms of trafficking in persons and establishing punishment which is commensurate with the heinous nature of this crime. It provides for sentences of up to life in prison for those criminals involved in trafficking children.

Those criminals who are involved in trafficking, from the lowest to the highest levels, should not expect to go unpunished in the United States or abroad, and neither should governments whose governments might be complicit in trafficking. This bill requires an expansion of reporting on trafficking in the annual Country Reports on Human Rights Practices, including a separate list of countries of origin, transit or destination for a significant number of trafficking victims which are not meeting minimum standards for the elimination of trafficking. This bill provides for sanctions against counties which do not meet these minimum standards. It also authorizes the Secretary of State to publish a list of foreign persons involved in trafficking, and authorizes the President to take tough action against any person on that list.

A similar bill to our bills is moving through the House. Both that bill, H.R. 3244, and the bills that we are introducing today, are bipartisan efforts that deserve our full consideration. Senator BROWNBACK and I have worked hard to create a bill that is comprehensive and addresses both of our concerns, and both of us are equally committed to the fight against trafficking. We disagree, however, on a small but significant part of the strategy in this fight: the use of mandatory versus discretionary sanctions against countries which do not meet the minimum standards for elimination of trafficking.

While Senator BROWNBACK believes a system of mandatory sanctions will better facilitate our goal to eliminate trafficking, after much research into the effect of a mandatory sanctions requirement, I believe a discretionary sanctions approach, allowing for a more targeted use of sanctions, together with a requirement for the delivery to Congress of a separate list of countries involved in trafficking, is the better approach.

Trafficking exploits poor women and booms in societies undergoing severe economic distress. To impose economic sanctions in trafficking legislation that cuts off a broad range of bilateral and multilateral assistance programs designed to improve the economy of specific nations is to cause harm to the very people who might be helped by the legislation.

For example, I don't believe we can justify cutting off funding designed to foster economic reform so that those most susceptible to trafficking such as women and children, can find work; or cutting off funding for programs that increase professionalism and independence in the judicial system so that traffickers can be held accountable; or even cutting off programs designed to provide training and technical assistance to countries which are generally making an effort to combat trafficking. This is what could happen to certain countries which are known to have a severe trafficking problem, under a mandatory sanctions regime. I don't believe we justify cutting off child survival and disease programs which counter the spread of HIV and AIDS, a significant problem among women trafficked into the sex industry, to countries in which sex trafficking is a large problem such as the Philippines and Bangladesh. These are just a couple of examples of the problems created by a sanctions regime that is too broad. A more targeted, discretionary sanctions approach to sanctions is, I think, clearly the way to go.

By requiring a list of countries involved in trafficking who do not meet minimum standards for the elimination of it, we can closely monitor the progress of countries in their fight against trafficking. Trafficking in persons is a complicated issue that almost always involves larger criminal elements. Those countries which are truly committed to ending this gross human rights abuse, and are cooperating in the global battle against it, should not

fear the list since they will not be put on it. Those countries which are not doing their share should expect that the President of the United States will use his discretion to impose targeted sanctions, and I for one will do all I can to see that our government imposes appropriate sanctions against those governments whose officials are complicit in this terrible crime.

Sanctions can be an important deterrent. However, in my opinion broad mandatory sanctions within the context of trafficking are not useful. A discretionary sanctions regime that allows the President—who is, in fact, better positioned to understand the varying dynamics and extent of the trafficking problem from country to country—to impose specific, targeted, and workable sanctions against trafficking countries is a more sound approach.

I hope my colleagues will take a look at both of these trafficking bills and cosponsor one or the other as they move forward. These bills are identical except for the sanctions provision, and both provide the same broad and comprehensive assistance to trafficking victims and to countries working to combat trafficking.

Since my wife and I began working on this issue several years ago, I have met with trafficking victims, aftercare providers, and human rights advocates from around the world who have reminded me again and again of the horrible nature of this crime. We must intensify our work to eliminate trafficking in persons. We must focus our energy on this bipartisan effort to see the Trafficking Victims Protection Act of 2000 move quickly through the Senate Foreign Relations Committee and get passed into law this year. The many victims of trafficking deserve no less.

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By Mr. SARBANES (for himself, Mr. DODD, Mr. SCHUMER, and Mr. KERRY):

S. 2415. A bill to amend the Home Ownership and Equity Protection Act of 1994 and other sections of the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

PREDATORY LENDING CONSUMER PROTECTION ACT OF 2000

Mr. SARBANES. Mr. President, today I am introducing the Predatory Lending Consumer Protection Act with Senators DODD, KERRY, and SCHUMER. This legislation is a companion to an identical bill being introduced by Representative LAFALCE in the House of Representatives, along with a number of his colleagues.

Representative LAFALCE has demonstrated his strong commitment to a banking system that takes into consideration the credit needs of all Americans, including those that have been traditionally locked out of the market or are less sophisticated. I thank him for his leadership.

Homeownership is the American Dream. It is the opportunity for all Americans to put down roots and start creating equity for themselves and their families. Homeownership has been the path to building wealth for generations of Americans; it has been the key to ensuring stable communities, good schools, and safe streets.

The predatory lending industry plays on these hopes and dreams to cheat people of their hard-earned wealth. These lenders target working and lower income families, the elderly, and, often, uneducated homeowners for their abusive practices. To my mind, nothing can be more cynical.

Let me briefly describe how predatory lenders operate. They target people with a lot of equity in their homes; they underwrite the property without regard to the ability of the borrower to pay the loan back. They make their money by charging extremely high origination fees, and by ''packing'' other products into the loan, including upfront premiums for credit life insurance, or credit unemployment insurance, and others, for which they get significant commissions but are of no value to the homeowner.

The premiums for these products get financed into the loan, greatly increasing the loan's total balance amount, sometimes by as much as 50 percent. As a result, the borrower is likely to find himself in extreme financial distress.

Then, when the trouble hits, the predatory lender will offer to refinance the loan. Unfortunately, another characteristic of these loans is that they have prepayment penalties. So, by the time the refinancing occurs, with all the fees repeated and the prepayment penalty included, the lender/broker makes a lot of money from the transaction, and the owner has been stripped of his or her equity and, oftentimes, his or her home.

The problem is, most of these practices, while unethical and clearly abusive, are legal. There is a widening sense that this is a serious problem. Alan Greenspan at the Federal Reserve Board has recognized this as an increasing problem, as have the other banking regulators. For example, the FDIC is considering raising capital standards for all subprime lending; the Office of Thrift Supervision (OTS) has published an Advanced Notice of Proposed Rulemaking (ANPR) asking for information and views on these very practices; HUD Secretary Cuomo and Treasury Secretary Summers have convened a Task Force on this issue. Both Fannie Mae and Freddie Mac have developed a number of products that are intended to reach out to homeowners with somewhat impaired credit in order to bring them into the financial mainstream. These companies have also announced that they will not buy loans with single premium credit insurance financed into the loan, one of the problems highlighted by this legislation.

Clearly, there is already some action to address the problem of predatory lending. But we need to do more. This legislation will outlaw the most abusive practices, and enable the marketplace to eliminate the others. This is a very important point. Let me give you an example. The bill prohibits the financing of more than 3% of a loan in fees for high cost loans, because it is the financing of fees and premiums on extraneous products that literally strip the equity out of a person's home. However, the bill would not prohibit additional fees from being charged, so we are not regulating profit.

We want to make sure that the loan is affordable to the borrower. Tying the lender's return to the loan's successful repayment is the best way to assure this. Now, some people have raised concerns that limiting the financing of fees will push up interest rates. This may be true, but it is also better to see the return to the lender reflected in the interest rate because it is much easier for people to shop on the basis of the interest rate. As a result, the market will help to keep rates down. Moreover, higher rate mortgages can always be refinanced as borrower's credit standing improves.

Mr. President, this legislation has the support of the Leadership Conference on Civil Rights, the American Association of Retired People, the National Consumer Law Center, the Self-Help Credit Union of North Carolina, Consumers Union, Consumers Federation, ACORN, the National Association of Consumer Advocates, U.S. PIRG and others.

I want to make clear that this bill is aimed at predatory practices. There are many people who may have had some credit problems who still need access to affordable credit. They may only be able to get subprime loans, which charge higher interest rates. Clearly, to get the credit, they will have to pay somewhat higher rates because of the greater risk they represent. We want them to be able to get these loans.

But these families should not be stripped of their home equity through financing of extremely high fees, credit insurance, or prepayment penalties. They should not be forced into constant refinancing, losing more and more of the wealth they've taken a lifetime to build to a new set of fees each and every time.

This legislation will keep credit available, while discouraging or prohibiting these worst practices. The bill allows lenders to recover the costs of making their loans, while always leaving the door open to borrowers to repair their credit and move to lower cost loans.

Taken as a whole, predatory lending practices represent a frontal assault on homeowners all over America. Today,

we are coming to their defense. We must stop the American dream of homeownership from being distorted into a nightmare by these unscrupulous practices. We want to ensure that all borrowers, whether in the prime or subprime market, are treated fairly and responsibly. That is what this legislation is intended to do, and I urge my colleagues' consideration and support.

Mr. President, I ask unanimous consent that the bill and a summary of the legislation be printed in the RECORD.

S. 2415

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Predatory Lending Consumer Protection Act of 2000''.

**SEC. 2. AMENDMENTS TO DEFINITIONS IN TRUTH IN LENDING ACT.**

(a) HIGH COST MORTGAGES.—

(1) IN GENERAL.—The portion of section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) that precedes paragraph (2) of such section is amended to read as follows:

''(aa) MORTGAGE REFERRED TO IN THIS SUBSECTION.—

''(1) DEFINITION.—

''(A) IN GENERAL.—A mortgage referred to in this subsection means a consumer credit transaction—

''(i) that is secured by the consumer's principal dwelling, other than a reverse mortgage transaction; and

''(ii) the terms of which are described in at least 1 of the following subclauses:

''(I) The transaction is secured by a first mortgage on the consumer's principal dwelling and the annual percentage rate on the credit, at the consummation of the transaction, will exceed by more than 6 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor;

''(II) The transaction is secured by a junior or subordinate mortgage on the consumer's principal dwelling and the annual percentage rate on the credit, at the consummation of the transaction, will exceed by more than 8 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor.

''(III) The total points and fees payable on the transaction will exceed the greater of 5 percent of the total loan amount or $1,000.

''(B) INTRODUCTORY RATES NOT TAKEN INTO ACCOUNT.—If the terms of any consumer credit transaction that is secured by the consumer's principal dwelling offer, for any initial or introductory period, an annual percentage rate of interest which—

''(i) is less than the annual percentage rate of interest which will apply after the end of such initial or introductory period; or

''(ii) in the case of an annual percentage rate which varies in accordance with an index, which is less than the current annual percentage rate under the index which will apply after the end of such period,

the annual percentage rate of interest that shall be taken into account for purposes of subclauses (I) and (II) of subparagraph (A)(ii) shall be the rate described in clause (i) or (ii) of this subparagraph rather than any rate in effect during the initial or introductory period.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 103(aa)(2) of the Truth in Lending Act (15 U.S.C. 1602(aa)(2)) is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(b) POINTS AND FEES.—Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) all compensation paid directly or indirectly by a consumer or a creditor to a mortgage broker;'';

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes and insurance);

''(D) the cost of all premiums financed by the lender, directly or indirectly, for any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments financed by the lender, directly or indirectly, for any debt cancellation or suspension agreement or contract, except that, for purposes of this subparagraph, insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis shall not be considered financed by the lender;

''(E) any prepayment penalty (as defined in section 129(c)(5)) or other fee paid by the consumer in connection with an existing loan which is being refinanced with the proceeds of the consumer credit transaction; and''.

(c) HIGH COST MORTGAGE LENDER.—

(1) IN GENERAL.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by striking the last sentence and inserting ''Any person who originates 2 or more mortgages referred to in subsection (aa) in any 12-month period, any person who originates 1 or more such mortgages through a mortgage broker or acted as a mortgage broker between originators and consumers on more than 5 mortgages referred to in subsection (aa) within the preceding 12-month period, and any creditor-affiliated party shall be considered to be a creditor for purposes of this title.''.

(2) CREDITOR-AFFILIATED PARTY DEFINED.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

''(cc) CREDITOR-AFFILIATED PARTY.—The term ''creditor-affiliated party'' means—

(1) any director, officer, employee, or controlling stockholder of, or agent for, a creditor;

(2) in the case of a creditor which is an insured depository institution, any other person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j) of the Federal Deposit Insurance Act; and

(3) any shareholder, consultant, joint venture partner, and any other person, including any independent contractor (such as an attorney, appraiser, or accountant), who participates in the conduct of the affairs of, or controls the lending practices of, a creditor, as determined (by regulation or on a case-by-case) by the appropriate Federal agency under subsection (a) or (c) of section 108 with respect to the creditor.''.

**SEC. 3. AMENDMENTS TO EXISTING REQUIREMENTS FOR HIGH COST CONSUMER MORTGAGES.**

(a) ADDITIONAL DISCLOSURES.—Section 129(a)(1) of the Truth in Lending Act (15 U.S.C. 1639(a)(1)) is amended by adding at the end the following new subparagraphs:

''(D) 'The interest rate on this loan is much higher than most people pay. This means the chance that you will lose your home is much higher if you do not make all payments under the loan.'.

''(E) 'You may be able to get a loan with a much lower interest rate. Before you sign any papers, you have the right to go see a credit and debt counseling service and to consult other lenders to find ways to get a cheaper loan.'.

''(F) 'If you are taking out this loan to repay other loans, look to see how many months it will take to pay for this loan and what the total amount is that you will have to pay before this loan is repaid. Even though the total amount you will have to pay each month for this loan may be less than the total amount you are paying each month for those other loans, you may have to pay on this loan for many more months than those other loans which will cost you more money in the end.'''.

(b) PREPAYMENT PENALTY PROVISIONS.—Section 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c)) is amended to read as follows:

''(c) PREPAYMENT PENALTY PROVISIONS.—

''(1) NO PREPAYMENT PENALTIES AFTER END OF 24-MONTH PERIOD.—A mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay any prepayment penalty for any payment made after the end of the 24-month period beginning on the date the mortgage is consummated.

''(2) NO PREPAYMENT PENALTIES IF MORE THAN 3 PERCENT OF POINTS AND FEES WERE FINANCED.—Subject to subsection (l)(1), a mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay any prepayment penalty for any payment made at or before the end of the 24-month period referred to in paragraph (1) if the creditor financed points or fees in connection with the consumer credit transaction in an amount equal to or greater than 3 percent of the total amount of credit extended in the transaction.

''(3) LIMITED PREPAYMENT PENALTY FOR EARLY REPAYMENT UNDER CERTAIN CIRCUMSTANCES.—Subject to paragraph (2), the terms of a mortgage referred to in section 103(aa) may contain terms under which a consumer must pay a prepayment penalty for any payment made at or before the end of the 24-month period referred to in paragraph (1) to the extent the sum of total amount of points or fees financed by the creditor, if any, in connection with the consumer credit transaction and the total amount payable as a prepayment penalty does not exceed the amount which is equal to 3 percent of the total amount of credit extended in the transaction.

''(4) CONSTRUCTION.—For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

''(5) PREPAYMENT PENALTY DEFINED.—The term 'prepayment penalty' means any monetary penalty imposed on a consumer for paying all or part of the principal with respect to a consumer credit transaction before the date on which the principal is due.''.

(c) ALL BALLOON PAYMENTS PROHIBITED.—Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended by striking ''having a term of less than 5 years''.

(d) ASSESSMENT OF ABILITY TO REPAY.—Section 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended—

(1) by striking ''CONSUMER.—A creditor'' and inserting ''CONSUMER.—

''(1) PROHIBITION ON PATTERNS AND PRACTICES.—A creditor''; and

(2) by adding at the end the following new paragraphs:

''(2) CASE-BY-CASE ASSESSMENTS OF CONSUMER ABILITY TO PAY REQUIRED.—

''(A) IN GENERAL.—In addition to the prohibition in paragraph (1) on engaging in certain patterns and practices, a creditor may not extend any credit in connection with any mortgage referred to in section 103(aa) unless the creditor has determined, at the time such credit is extended, that 1 or more of the resident obligors, when considered individually and collectively, will be able to make the scheduled payments under the terms of the transaction based on a consideration of their current and expected income, current obligations, employment status, and other financial resources, without taking into account any equity of any such obligor in the dwelling which is the security for the credit.

''(B) REGULATIONS.—The Board shall prescribe, by regulation the appropriate format for determining a consumer's ability to pay and the criteria to be considered in making any such determination.

''(C) RESIDENT OBLIGOR.—For purposes of this paragraph, the term 'resident obligor' means an obligor for whom the dwelling securing the extension of credit is, or upon the consummation of the transaction will be, the principal residence.

''(3) VERIFICATION.—The requirements of paragraphs (1) and (2) shall not be deemed to have been met unless any information relied upon by the creditor for purposes of any such paragraph has been verified by the creditor independently of information provided by any resident obligor.''.

(e) REQUIREMENTS RELATING TO HOME IMPROVEMENT CONTRACTS.—Section 129(i) of the Truth in Lending Act (15 U.S.C. 1639(i)) is amended—

(1) by striking ''IMPROVEMENT CONTRACTS.—A creditor'' and inserting ''IMPROVEMENT CONTRACTS.—

''(1) IN GENERAL.—A creditor''; and

(2) by adding at the end the following new paragraph:

''(2) AFFIRMATIVE CLAIMS AND DEFENSES.—Notwithstanding any other provision of law, any assignee or holder, in any capacity, of a mortgage referred to in section 103(aa) which was made, arranged, or assigned by a person financing home improvements to the dwelling of a consumer shall be subject to all affirmative claims and defenses which the consumer may have against the seller, home improvement contractor, broker, or creditor with respect to such mortgage or home improvements.''.

(f) CLARIFICATION OF RESCISSION RIGHTS.—Section 129(j) of the Truth in Lending Act (15 U.S.C. 1639(j)) is amended to read as follows:

''(j) CONSEQUENCE OF FAILURE TO COMPLY.—

''(1) IN GENERAL.—If, in the case of a mortgage referred to in section 103(aa)—

''(A) the mortgage contains a provision prohibited by this section or does not contain a provision required by this section; or

''(B) a creditor or other person fails to comply with the provisions of this section, whether by an act or omission, with regard to such mortgage at any time,

the consummation of the consumer credit transaction resulting in such mortgage shall be treated as a failure to deliver the material disclosures required under this title for the purpose of section 125.

''(2) RULE OF APPLICATION.—In any application of section 125 to a mortgage described in section 103(aa) under circumstances described in paragraph (1), paragraphs (2) and (4) of section 125(e) shall not apply or be taken into account.''.

**SEC. 4. ADDITIONAL REQUIREMENTS FOR HIGH COST CONSUMER MORTGAGES.**

(a) SINGLE PREMIUM CREDIT INSURANCE.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended—

(1) by redesignating subsections (k) and (l) as subsections (s) and (t), respectively; and

(2) by inserting after subsection (j), the following new subsection:

''(k) SINGLE PREMIUM CREDIT INSURANCE.—

''(1) IN GENERAL.—The terms of a mortgage referred to in section 103(aa) may not require, and no creditor or other person may require or allow—

''(A) the advance collection of a premium, on a single premium basis, for any credit life, credit disability, credit unemployment, or credit property insurance, and any analogous product; or

''(B) the advance collection of a fee for any debt cancellation or suspension agreement or contract,

in connection with any such mortgage, whether such premium or fee is paid directly by the consumer or is financed by the consumer through such mortgage.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as affecting the right of a creditor to collect premium payments on insurance or debt cancellation or suspension fees referred to in paragraph (1) that are calculated and paid on a regular monthly basis, if the insurance transaction is conducted separately from the mortgage transaction, the insurance may be canceled by the consumer at any time, and the insurance policy is automatically canceled upon repayment or other termination of the mortgage referred to in paragraph (1).''.

(b) RESTRICTION ON FINANCING POINTS AND FEES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (k) (as added by subsection (a) of this section) the following new subsection:

''(l) RESTRICTION ON FINANCING POINTS AND FEES.—

''(1) LIMIT ON AMOUNT OF POINTS AND FEES THAT MAY BE FINANCED.—Subject to paragraphs (2) and (3) of subsection (c), no creditor may, in connection with the formation or consummation of a mortgage referred to in section 103(aa), finance, directly or indirectly, any portion of the points, fees, or other charges payable to the creditor or any third party in an amount in excess of the greater of 3 percent of the total loan amount or $600.

''(2) PROHIBITION ON FINANCING CERTAIN POINTS, FEES, OR CHARGES.—No creditor may, in connection with the formation or consummation of a mortgage referred to in section 103(aa), finance, directly or indirectly, any of the following fees or other charges payable to the creditor or any third party:

''(A) Any prepayment fee or penalty required to be paid by the consumer in connection with a loan or other extension of credit which is being refinanced by such mortgage if the creditor, with respect to such mortgage, or any affiliate of the creditor, is the creditor with respect to the loan or other extension of credit being refinanced.

''(B) Any points, fees, or other charges required to be paid by the consumer in connection with such mortgage if—

''(i) the mortgage is being entered into in order to refinance an existing mortgage of the consumer that is referred to in section 103(aa); and

''(ii) if the creditor, with respect to such new mortgage, or any affiliate of the creditor, is the creditor with respect to the existing mortgage which is being refinanced.''.

(c) CREDITOR CALL PROVISION.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (l) (as added by subsection (b) of this section) the following new subsection:

''(m) CREDITOR CALL PROVISION.—

''(1) IN GENERAL.—A mortgage referred to in section 103(aa) may not include terms under which the indebtedness may be accelerated by the creditor, in the creditor's sole discretion.

''(2) EXCEPTION.—Paragraph (1) shall not apply when repayment of the loan has been accelerated as a result of a bona fide default.''.

(d) PROHIBITION ON ACTIONS ENCOURAGING DEFAULT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (m) (as added by subsection (c) of this section) the following new subsection:

''(n) PROHIBITION ON ACTIONS ENCOURAGING DEFAULT.—No creditor may make any statement, take any action, or fail to take any action before or in connection with the formation or consummation of any mortgage referred to in section 103(aa) to refinance all or any portion of an existing loan or other extension of credit, if the statement, action, or failure to act has the effect of encouraging or recommending the consumer to default on the existing loan or other extension of credit at any time before, or in connection with, the closing or any scheduled closing on such mortgage.''.

(e) MODIFICATION OR DEFERRAL FEES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (n) (as added by subsection (d) of this section) the following new subsection:

''(o) MODIFICATION OR DEFERRAL FEES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a creditor may not charge any consumer with respect to a mortgage referred to in section 103(aa) any fee or other charge—

''(A) to modify, renew, extend, or amend such mortgage, or any provision of the terms of the mortgage; or

''(B) to defer any payment otherwise due under the terms of the mortgage.

''(2) EXCEPTION FOR MODIFICATIONS FOR THE BENEFIT OF THE CONSUMER.—Paragraph (1) shall not apply with respect to any fee imposed in connection with any action described in subparagraph (A) or (B) if—

''(A) the action provides a material benefit to the consumer; and

''(B) the amount of the fee or charge does not exceed—

''(i) an amount equal to 0.5 percent of the total loan amount; or

''(ii) in any case in which the total loan amount of the mortgage does not exceed $60,000, an amount in excess of $300.''.

(f) CONSUMER COUNSELING REQUIREMENTS.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (o) (as added by subsection (e) of this section) the following new subsection:

''(p) CONSUMER COUNSELING REQUIREMENT.—

''(1) IN GENERAL.—A creditor may not extend any credit in the form of a mortgage referred to in section 103(aa) to any consumer, unless the creditor has provided to the consumer, at such time before the consummation of the mortgage and in such manner as the Board shall provide by regulation, all of the following:

''(A) All warnings and disclosures regarding the risks of the mortgage to the consumer.

''(B) A separate written statement recommending that the consumer take advantage of available home ownership or credit counseling services before agreeing to the terms of any mortgage referred to in section 103(aa).

''(C) A written statement containing the names, addresses, and telephone numbers of

names, addresses, and telephone numbers of counseling agencies or programs reasonably available to the consumer that have been certified or approved by the Secretary of Housing and Urban Development, a State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989), or the agency referred to in subsection (a) or (c) of section 108 with jurisdiction over the creditor as qualified to provide counseling on—

''(i) the advisability of a high cost loan transaction; and

''(ii) the appropriateness of a high cost loan for the consumer.

''(B) COMPLETE AND UPDATED LISTS REQUIRED.—Any failure to provide as complete or updated a list under paragraph (1)(C) as is reasonably possible shall constitute a violation of this section.''.

(g) ARBITRATION.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (p) (as added by subsection (f) of this section) the following new subsection:

''(q) ARBITRATION.—

''(1) IN GENERAL.—A mortgage referred to in section 103(aa) may not include terms which require arbitration or any other nonjudicial procedure as the method for resolving any controversy or settling any claims arising out of the transaction.

''(2) POST-CONTROVERSY AGREEMENTS.—Subject to paragraph (3), paragraph (1) shall not be construed as limiting the right of the consumer and the creditor to agree to arbitration or any other nonjudicial procedure as the method for resolving any controversy at any time after a dispute or claim under the transaction arises.

''(3) NO WAIVER OF STATUTORY CAUSE OF ACTION.—No provision of any mortgage referred to in section 103(aa) or any agreement between the consumer and the creditor shall be applied or interpreted so as to bar a consumer from bringing an action in an appropriate district court of the United States, or any other court of competent jurisdiction, pursuant to section 130 or any other provision of law, for damages or other relief in connection with any alleged violation of this section, any other provision of this title, or any other Federal law.''.

(h) PROHIBITION ON EVASIONS.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (q) (as added by subsection (g) of this section) the following new subsection:

''(r) PROHIBITIONS ON EVASIONS, STRUCTURING OF TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—

''(1) IN GENERAL.—A creditor may not take any action—

''(A) for the purpose or with the intent to circumvent or evade any requirement of this title, including entering into a reciprocal arrangement with any other creditor or affiliate of another creditor or dividing a transaction into separate parts, for the purpose of evading or circumventing any such requirement; or

''(B) with regard to any other loan or extension of credit for the purpose or with the intent to evade the requirements of this title, including structuring or restructuring a consumer credit transaction as another form of loan, such as a business loan.

''(2) OTHER ACTIONS.—In addition to the actions prohibited under paragraph (1), a creditor may not take any action which the Board determines, by regulation, constitutes a bad faith effort to evade or circumvent any requirement of this section with regard to a consumer credit transaction.

''(3) REGULATIONS.—The Board shall prescribe such regulations as the Board determines to be appropriate to prevent circumvention or evasion of the requirements of this section or to facilitate compliance with the requirements of this section.''.

**SEC. 5. AMENDMENTS RELATING TO RIGHT OF RESCISSION.**

(a) TIMING OF WAIVER BY CONSUMER.—Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended—

(1) by striking ''(a) Except as otherwise provided'' and inserting ''(a) RIGHT ESTABLISHED.—

''(1) IN GENERAL.—Except as otherwise provided''; and

(2) by adding at the end the following new paragraph:

''(2) TIMING OF ELECTION OF WAIVER BY CONSUMER.—No election by a consumer to waive the right established under paragraph (1) to rescind a transaction shall be effective if—

''(A) the waiver was required by the creditor as a condition for the transaction;

''(B) the creditor advised or encouraged the consumer to waive such right of the consumer; or

''(C) the creditor had any discussion with the consumer about a waiver of such right during the period beginning when the consumer provides written acknowledgement of the receipt of the disclosures and the delivery of forms and information required to be provided to the consumer under paragraph (1) and ending at such time as the Board determines, by regulation, to be appropriate.''.

(b) NONCOMPLIANCE WITH REQUIREMENTS AS RECOUPMENT IN FORECLOSURE PROCEEDING.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by inserting after the 2d sentence the following new sentence: ''This subsection also does not bar a person from asserting a rescission under section 125, in an action to collect the debt as a defense to a judicial or nonjudicial foreclosure after the expiration of the time periods for affirmative actions set forth in this section and section 125.''.

**SEC. 6. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.**

(a) INCREASE IN AMOUNT OF CIVIL MONEY PENALTIES FOR CERTAIN VIOLATIONS.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) in (2)(A)(iii), by striking ''$2,000'' and inserting ''$10,000''; and

(2) in paragraph (2)(B), by striking '' lesser of $500,000 or 1 percentum of the net worth of the creditor'' and inserting ''the greater of—

''(i) the amount determined by multiplying the maximum amount of liability under subparagraph (A) for such failure to comply in an individual action by the number of members in the certified class; or

''(ii) the amount equal to 2 percent of the net worth of the creditor.''.

(b) STATUTE OF LIMITATIONS EXTENDED FOR SECTION 129 VIOLATIONS.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) (as amended by section 5(b) of this Act) is amended—

(1) in the 1st sentence, by striking ''Any action'' and inserting ''Except as provided in the subsequent sentence, any action''; and

(2) by inserting after the 1st sentence the following new sentence: ''Any action under this section with respect to any violation of section 129 may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 3-year period beginning on the date of the occurrence of the violation.''.

**SEC. 7. AMENDMENT TO FAIR CREDIT REPORTING ACT.**

Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended by adding at the end the following new subsection:

''(e) DUTY OF CREDITORS WITH RESPECT TO HIGH COST MORTGAGES.—

''(1) IN GENERAL.—Each creditor who enters into a consumer credit transaction which is a mortgage referred to in section 103(aa), and each successor to such creditor with respect to such transaction, shall report the complete payment history, favorable and unfavorable, of the obligor with respect to such transaction to a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis at least quarterly, or more frequently as required by regulation or in guidelines established by participants in the secondary mortgage market, while such transaction is in effect.

''(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'credit' and 'creditor' have the same meanings as in section 103.''.

**SEC. 8. REGULATIONS.**

The Board of Governors of the Federal Reserve System shall publish regulations implementing this Act, and the amendments made by this Act, in final form before the end of the 6-month period beginning on the date of the enactment of this Act.

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SUMMARY OF THE ''PREDATORY LENDING CONSUMER PROTECTION ACT OF 2000''

Definition of ''High Cost'' Mortgage: the legislation tightens the definition of a ''high cost mortgage,'' for which certain consumer protections are triggered. The new definition, which amends the ''Home Ownership Equipment Protection Act,'' is as follows: First mortgages that exceed Treasury securities by six (6) percentage points; second mortgages that exceed Treasury securities by eight (8) percentage points; or mortgages where total points and fees payable by the borrower exceed the greater of five percent (5%) of the total loan amount, or $1,000. The bill revises the definition of points and fees to be more inclusive.

The following key protections are triggered for high cost mortgages only:

*Restrictions on financing of points and fees.* The bill restricts a creditor from directly or indirectly financing any portion of the points, fees or other charges greater than 3% of the total sum of the loan, or $600. The lender cannot finance prepayment penalties or points paid by the consumer if the originator of the loan is refinancing the loan. Moreover, the lender or any affiliated creditor cannot finance points and fees for the refinancing of a loan they originated.

*Limitation on the payment of prepayment penalties.* The bill prohibits the lender from imposing prepayment penalties after the initial 24 month period of the loan. During the first 24 months of a loan, prepayment penalties are limited to the difference in the amount of closing costs and fees financed and 3% of the total loan amount.

*Prohibition on balloon payments.* The bill prohibits the use of balloon payments.

*Limitation on single premium credit insurance.* The bill would prohibit upfront payment or financing of credit life, credit disability or credit unemployment insurance on a single premium basis. However, borrowers are free to purchase such insurance with the regular mortgage payment on a periodic basis, provided that it is a separate transaction that can be canceled at any time.

*Extension of liability for home improvement contract loans.* The bill would make parent companies and officers of lenders, or subsequent holders of loans by a contractor, liable for HOEPA violations if the contractor goes out of business to avoid liability.

*Limitation on mandatory arbitration clauses.* The bill prohibits mortgages from including terms which require arbitration or other non-judicial settlement as the sole method of settling claims or disputes arising under the loan agreement.

*Prohibition on requiring rescission of rights.* The bill prohibits a creditor from requiring or encouraging a borrower to sign an election not to exercise the three-day right to

rescind or cancel a credit transaction at the same time that the borrowers receives notice of the right of rescission.

Other provisions in the bill:

Increase statutory damages in individual civil actions and class actions. The maximum amount that can be awarded in individual actions is increased to $100,000. The maximum amount that can be awarded in a class action is the greater of: (1) the maximum amount of the liability available for an individual action multiplied by the number of members or (ii) percent of the net worth of the creditor.

Require that as a condition for making a high cost loan, a creditor make a determination at the time the loan is consummated, that the borrower will be able to make the schedule payments to repay the loan obligation.

Prohibit a lender from making a high cost loan unless it certifies that it has provided the borrower with certain information regarding the risks associated with high cost loans and the availability of home ownership counseling.

Require additional disclosures related to the risks associated with high cost mortgages.

Prohibit a creditor/lender from: (i) recommending or encouraging default on an existing loan or other debt prior to, or in connection with, a closing on a high cost loan, (ii) including any provision which permits the creditor, in its sole discretion, to accelerate the indebtedness under the loan, or (iii) charging a borrower any fee to modify a high-cost loan or defer payment due under such high cost loan unless it provides a material benefit to the borrower.

Require that a creditor annually report both favorable and unfavorable payment history of borrowers to credit bureaus.

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## ADDITIONAL COSPONSORS

S. 459

At the request of Mr. HATCH, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 660

At the request of Mr. BINGAMAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 660, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 741

At the request of Mr. GRAHAM, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 741, a bill to provide for pension reform, and for other purposes.

S. 796

At the request of Mr. DOMENICI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 796, a bill to provide for full parity with respect to health insurance coverage for certain severe biologically-based mental illnesses and to prohibit limits on the number of mental illness-related hospital days and outpatient visits that are covered for all mental illnesses.

S. 801

At the request of Mr. HUTCHINSON, his name was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 1452

At the request of Mr. SHELBY, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1487

At the request of Mr. AKAKA, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1487, a bill to provide for excellence in economic education, and for other purposes.

S. 1557

At the request of Mr. KERREY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1557, a bill to amend the Internal Revenue Code of 1986 to codify the authority of the Secretary of the Treasury to issue regulations covering the practices of enrolled agents.

S. 1623

At the request of Mr. SPECTER, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1623, a bill to select a National Health Museum site.

S. 1810

At the request of Mrs. MURRAY, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

S. 1814

At the request of Mr. SMITH of Oregon, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 1814, a bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes.

S. 1855

At the request of Mr. MURKOWSKI, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1855, a bill to establish age limitations for airmen.

S. 1921

At the request of Mr. CAMPBELL, the names of the Senator from Rhode Island (Mr. L. CHAFEE), and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1921, a bill to authorize the placement within the site of the Vietnam Veterans Memorial of a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

S. 2005

At the request of Mr. BURNS, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 2005, a bill to repeal the modification of the installment method.

S. 2018

At the request of Mrs. HUTCHISON, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2081

At the request of Mr. HATCH, the name of the Senator from Utah (Mr . BENNETT) was added as a cosponsor of S. 2081, a bill entitled ''Religious Liberty Protection Act of 2000.''

S. 2082

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2082, a bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States.

S. 2297

At the request of Mr. CRAPO, the names of the Senator from Utah (Mr. BENNETT), the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2297, a bill to reauthorize the Water Resources Research Act of 1984.

S. 2323

At the request of Mr. MCCONNELL, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Florida (Mr. GRAHAM), and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 2323, a bill to amend the Fair Labor Standards Act of 1938 to clarify the treatment of stock options under the Act.

S. 2357

At the request of Mr. REID, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2357, a bill to amend title 38, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 2386

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2386, a bill to extend the Stamp Out Breast Cancer Act.

S. 2390

At the request of Mr. DEWINE, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Missouri (Mr. ASHCROFT) were

added as cosponsors of S. 2390, a bill to establish a grant program that provides incentives for States to enact mandatory minimum sentences for certain firearms offenses, and for other purposes.

S. 2394

At the request of Mr. MOYNIHAN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2394, a bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments.

S. CON. RES. 98

At the request of Mr. DEWINE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. Con. Res. 98, a concurrent resolution urging compliance with the Hague Convention on the Civil Aspects of International Child Abduction.

S.J. RES. 44

At the request of Mr. KENNEDY, the names of the Senator from California (Mrs. BOXER), the Senator from Nevada (Mr. BRYAN), the Senator from Connecticut (Mr. DODD), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S.J. Res. 44, a joint resolution supporting the Day of Honor 2000 to honor and recognize the service of minority veterans in the United States Armed Forces during World War II.

S. RES. 268

At the request of Mr. EDWARDS, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Illinois (Mr. DURBIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Indiana (Mr. BAYH), the Senator from Rhode Island (Mr. L. CHAFEE), the Senator from South Carolina (Mr. HOLLINGS) , the Senator from Louisiana (Ms. LANDRIEU), the Senator from Rhode Island (Mr. REED), the Senator from Alabama (Mr. SHELBY), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. Res. 268, a resolution designating July 17 through July 23 as ''National Fragile X Awareness Week.''

S. RES. 272

At the request of Mr. VOINOVICH, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. Res. 272, a resolution expressing the sense of the Senate that the United States should remain actively engaged in southeastern Europe to promote long-term peace, stability, and prosperity; continue to vigorously oppose the brutal regime of Slobodan Milosevic while supporting the efforts of the democratic opposition; and fully implement the Stability Pact.

## SENATE RESOLUTION 286—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SENATE COMMITTEE ON FOREIGN RELATIONS SHOULD HOLD HEARINGS AND THE SENATE SHOULD ACT ON THE CONVENTION OF THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Mrs. BOXER (for herself, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Ms. COLLINS, Mr. DASCHLE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MOYNIHAN, Mrs. MURRAY, Mr. ROBB, Mr. REED, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Ms. SNOWE, Mr. SPECTER, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was ordered to lie over, under the rule:

S. RES. 286

Whereas the United States has shown leadership in promoting human rights, including the rights of women and girls, and was instrumental in the development of international human rights treaties and norms, including the International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW);

Whereas the Senate has already agreed to the ratification of several important human rights treaties, including the Genocide Convention, the Convention Against Torture, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Racial Discrimination;

Whereas CEDAW establishes a worldwide commitment to combat discrimination against women and girls;

Whereas 165 countries of the world have ratified or acceded to CEDAW and the United States is among a small minority of countries, including Afghanistan, North Korea, Iran, and Sudan, which have not;

Whereas CEDAW is helping combat violence and discrimination against women and girls around the world;

Whereas CEDAW has had a significant and positive impact on legal developments in countries as diverse as Uganda, Colombia, Brazil, and South Africa, including, on citizenship rights in Botswana and Japan, inheritance rights in Tanzania, property rights and political participation in Costa Rica;

Whereas the Administration has proposed a small number of reservations, understandings, and declarations to ensure that U.S. ratification fully complies with all constitutional requirements, including states' and individuals' rights;

Whereas the legislatures of California, Iowa, Massachusetts, New Hampshire, New York, North Carolina, South Dakota, and Vermont have endorsed U.S. ratification of CEDAW;

Whereas more than one hundred U.S.-based, civic, legal, religious, education, and environmental organizations, including many major national membership organizations, support U.S. ratification of CEDAW;

Whereas ratification of CEDAW would allow the United States to nominate a representative to the CEDAW oversight committee; and

Whereas 2000 is the 21st anniversary of the adoption of CEDAW by the United Nations General Assembly: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that—

(1) the Senate Foreign Relations Committee should hold hearings on the convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and

(2) the Senate should act on CEDAW by July 19, 2000, the 20th anniversary of the signing of the convention by the United States.

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## SENATE RESOLUTION 287—EXPRESSING THE SENSE OF THE SENATE REGARDING U.S. POLICY TOWARD LIBYA

Mr. HELMS (for himself, Mr. KENNEDY, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 287

Whereas 270 people, including 189 Americans, were killed in the terrorist bombing of Pan Am Flight 103 over Lockerbie, Scotland on December 21, 1988;

Whereas this bombing was one of the worst terrorist atrocities in American history;

Whereas 2 Libyan suspects in the attack are scheduled to go on trial in The Netherlands on May 3, 2000;

Whereas the United Nations Security Council has required Libya to cooperate throughout the trial, pay compensation to the families if the suspects are found guilty, and end support for international terrorism before multilateral sanctions can be permanently lifted;

Whereas Libya is accused in the 1986 La Belle discotheque bombing in Germany which resulted in the death of 2 United States servicemen;

Whereas in March 1999, 6 Libyan intelligence agents including Muammar Qadhafi's brother-in-law, were convicted in absentia by French courts for the bombing of UTA Flight 772 that resulted in the death of 171 people, including 7 Americans;

Whereas restrictions on United States citizens' travel to Libya, known informally as a travel ban, have been in effect since December 11, 1981, as a result of ''threats of hostile acts against Americans'' according to the Department of State;

Whereas on March 22, 4 United States State Department officials departed for Libya as part of a review of the travel ban; and

Whereas Libyan officials have interpreted the review as a positive signal from the United States, and according to a senior Libyan official ''the international community was convinced that Libya's foreign policy position was not wrong and there is a noticeable improvement in Libya's relations with the world'': Now, therefore, be it

*Resolved,* That it is the sense of the Senate that—

(1) Libya's refusal to accept responsibility for its role in terrorist attacks against United States citizens suggests that the imminent danger to the physical safety of United States travelers continues;

(2) the Administration should consult fully with Congress in considering policy toward Libya, including disclosure of any assurances received by the Qadhafi regime relative to the judicial proceedings in The Hague; and

(3) the travel ban and all other United States restrictions on Libya should not be eased until all cases of American victims of Libyan terrorism have been resolved and the Government of Libya has cooperated fully in bringing the perpetrators to justice.

Mr. KENNEDY. Mr. President, I am pleased to join Senators HELMS and

LAUTENBERG in submitting this resolution on the travel ban and other U.S. restrictions on Libya.

At the end of March, a team of State Department officials visited Libya as part of a review of the ban that has been in effect since 1981 on U.S. travel to Libya. State Department officials were in Libya for 26 hours, visiting hotels and other sites. Based on the findings of this delegation, the State Department is preparing a recommendation for the Secretary of State to help her determine whether there is still ''imminent danger to . . . the physical safety of United States travellers,'' as the law requires in order to maintain the ban.

Because of the travel ban, American citizens can travel to Libya only if they obtain a license from the Department of the Treasury. In addition, the State Department must first validate a passport for travel to Libya.

The travel ban was imposed originally for safety reasons and predates the terrorist bombing of Pan Am Flight 103. But lifting the ban now, just as the two Libyan suspects are about to go on trial in The Netherlands for their role in that atrocity, will undoubtedly be viewed as a gesture of good will to Colonel Qadhafi.

After State Department announced that it would send this consular team to Libya, a Saudi-owned daily paper quoted a senior Libyan official as saying the one-day visit by the U.S. team was a ''step in the right direction.'' The official said the visit was a sign that ''the international community was convinced that Libya's foreign policy position was not wrong and there is a noticeable improvement in Libya's relations with the world.''

Libya's Deputy Minister for Foreign Affairs and International Cooperation said the visit demonstrated that the Administration ''has realized the importance of Libya'' and that Libya considers ''that the negative chapter in our relations is over.''

Libya's Secretary for African Unity told reporters that the visit to Libya by U.S. officials was a welcome step and that '' . . . we welcome the normalization between the two countries.''

The good will gesture was certainly not lost on Colonel Qadhafi, who said on April 4, when asked about a possible warming of relations with the United States: ''I think America has reviewed its policy toward Libya and discovered that it is wrong . . . it is a good time for America to change its policy toward Libya.''

I have been in contact with many of the families of the victims of Pan Am Flight 103, and they are extremely upset by the timing of this decision. They are united in their belief that the U.S. delegation should not have been sent to Libya and that it would be a serious mistake to lift the travel ban before justice is served. The families want to know why the Secretary of State made this friendly overture to Colonel Qadhafi now—just six weeks before the trial in the Netherlands begins. They question how much information the State Department was able to obtain by spending only 26 hours in Libya. They wonder why the State Department could not continue to use the same sources of information it has been using for many years to make a determination about the travel ban.

There is no reason to believe that the situation in Libya has changed since November 1999, when the travel ban was last extended on the basis of imminent danger to American citizens. Indeed, in January 2000 President Clinton cited Libya's support for terrorist activities and its non-compliance with UN Security Council Resolutions 731, 748, and 863 as actions and policies that ''pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interest of the United States.''

These American families have waited for justice for eleven long years. They felt betrayed by the decision to send the consular delegation to Libya. They have watched with dismay as our close ally, Great Britain, has moved to reestablish diplomatic relations with Libya, before justice is served for the British citizens killed in the terrorist bombing. The State Department denies it, but the families are concerned that the visit signals a change in U.S. policy, undermines U.S. sanctions, and calls into question the Administration's commitment to vigorously enforce the Iran Libya Sanctions Act. That Act requires the United States to impose sanctions on foreign companies which invest more than $40 million in the Libyan petroleum industry, until Libya complies with the conditions specified by the U.N. Security Council in its resolutions.

The bombing of Pan Am Flight 103, in which 188 Americans were killed, was one of the worst terrorist atrocities in American history. Other American citizens are waiting for justice in other cases against Libya as well. Libya is also accused in the 1986 La Belle discotheque bombing in Germany, which resulted in the deaths of two United States servicemen. The trial against five individuals implicated began in December of 1997 and is ongoing. In March 1999, six Libyan intelligence agents, including Colonel Qadhafi's brother-in-law, were convicted in absentia by a French court for the bombing of UTA Flight 772, which resulted in the deaths of 171 people, including seven Americans. A civil suit against Colonel Qadhafi based on that bombing is pending in France.

The State Department should not have sent a delegation to Libya now and it should not lift the travel ban on Libya at this time. The State Department's long-standing case-by-case consideration of passport requests for visits to Libya by U.S. citizens has worked well. It can continue to do so for the foreseeable future.

The resolution we are submitting today states the sense of the Senate that Libya's refusal to accept responsibility for its role in terrorist attacks against United States citizens suggests that the imminent danger to the physical safety of United States travelers continues. It calls on the Administration to consult fully with the U.S. Congress in considering policy toward Libya. It states that the travel ban and all other U.S. restrictions on Libya should not be eased until all cases of American victims of Libyan terrorism have been resolved and the government of Libya has cooperated fully in bringing the perpetrators to justice.

I urge my colleagues to support this resolution, and I ask unanimous consent that a Washington Post article and editorial on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 26, 2000]

STEALTHY SHIFT ON LIBYA

(By Jim Hoagland)

In the 11 years since her husband and 188 other Americans were murdered aboard Pan Am 103, Victoria Cummock has learned to listen carefully to the words State Department officials, say, and do not say, to her. So alarm bells went off for Cummock the third or fourth time her latest interlocutor from Foggy Bottom seemed to limit responsibility for the terror bombing to ''the two indicted Libyans.''

''Wait a minute,'' Cummock recalls telling Michael Sheehan, head of the State Department's counterterrorism office. ''Your department always spoke of Libya and state-sponsored terrorism being responsible. You are distancing your past position. You now present this as just two wild and crazy guys off on their own? What is going on?''

In the small space between two bureaucratic formulations Victoria Cummock heard the sound of her husband, and the other victims of a gigantic crime aimed at their nation, being consigned to official oblivion. Your cause is no longer our cause, she and others on the telephone conference call heard Sheehan not quite say. It is to move on.

Sheehan does not recall the exchange that way. He told me he never made the semantic distinction heard by Cummock, who lives in Coral Gables, Fla. But he also declined to respond directly when I asked if he thought Libya still practices or supports state-sponsored terrorism. ''They are still on our terrorism list,'' was as far as he would go.

Mere she-said, he-said in an emotion-charged conversation between still-grieving families and a government official given the thankless task of briefing them? Not quite. Whatever the exact words spoken, Cummock did hear the background music being played in a skillful operation to move policy one small step at a time, almost imperceptibly and always deniably.

The Clinton administration has for more than a year been slowly shifting from a policy of isolating and punishing Libya to a policy of exploring whether the North African state can be rehabilitated and its oil made available to U.S. markets once again.

In the most transparent move yet, the State Department dispatched four officials to Tripoli Wednesday to judge whether Americans can safely travel to a country that few realize has been off-limits to them since 1981. The diplomats' safe return this weekend will presumably be evidence in the affirmative. Then a recommendation will go

to Secretary of State Madeleine Albright to remove or keep the official ban on U.S. travel to that inhospitable, barren land.

Sheehan insistently discounted the importance of this trip, and Albright may yet decide to keep the ban on. But this maneuvering must be viewed for what it is: a piece in a pattern of endgame diplomacy by the Clinton administration. Improving relations with states once known as rogues and lifting or easing sanctions where possible (with the exception of still politically useful Cuba) has become an undeclared but important objective for the Clintonites.

The push to close the books on the bombing of Pan Am 103 over Scotland, on Dec. 21, 1988, and other Libyan misdeeds is in part a response on the White House from Britain, Egypt and U.S. oil companies, all of which argue the case for rewarding Moammar Gadhafi's recent abstinence from terrorist exploits.

But it also reflects President Clinton's concern over the diplomatic and humanitarian effects of open-ended sanctions. ''The lack of international consensus on sanctions and the costs that brings has bothered him for some time,'' says one well-placed official.

There is a case to be made for reviewing and adjusting U.S. sanctions as conditions change: Clinton has in fact allowed Albright to make that case publicly and persuasively on Iran. She has skillfully mixed approval of a trend to internal democracy with strictures about Iran's continuing depredations abroad and let the public judge each step as it is taken.

But there is no similar intellectual honesty on Libya. There seems to be instead a stealth policy to bring change but not accept political responsibility for giving up on confronting the dictator who would have had to authorize Libyan participation in the bombing.

Last year the White House overrode skepticism from Justice Department officials and other opposition within the administration and agreed to Gadhafi's terms for a trial of two Libyan underling in The Hague, under Scottish law. Their trial begins in May.

''There was an unvoiced sense in these meetings that the Pan Am 103 families had to get over it and move on with their lives. The trial would help with that as well as with our diplomatic objectives,'' said one official who participated in the contentious high-level interagency sessions. ''But if these two are acquitted, it is all over. There will be no more investigations, and no more international pressure on Gadhafi. It is a huge risk.''

Worse: It is a huge risk that Bill Clinton is willing to take but not explain honestly to the American people. For shame, Mr. President.

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[From the Washington Post, Apr. 3, 2000]

THE LIBYA THAW

Four American diplomats recently returned from Libya, where they were sent by Secretary of State Madeleine Albright to determine whether it is time for the United States to lift the ban on using U.S. passports to visit Moammar Gadhafi's realm. The trip follows other steps hinting at a Clinton administration intention to thaw relations with a regime that remains on the U.S. list of states that sponsor terrorism.

The most notorious terrorist act linked to Tripoli is the Dec. 21, 1988, bombing of Pan Am Flight 103 over Lockerbie, Scotland. The attack killed 270 people, including 189 Americans. After an investigation fingered two Libyan agents, the United States won U.S. Security Council approval for sanctions against Libya. Last year the Clinton administration agreed to ''suspend'' sanctions after Mr. Gadhafi consented to hand the two men over for a trial under Scottish law at a special court in Holland. The Libyan dictator did so only after being satisfied, via a U.S.-vetted letter from U.N. Secretary General Kofi Annan, that the trial, which opens May 3, would focus on the two suspects and not on his regime.

In striking this compromise, the Clinton administration made clear that it would not approve permanent lifting of the U.N. sanctions or the lifting of unilateral U.S. sanctions until Mr. Gadhafi meets other demands, such as paying compensation, accepting Libyan responsibility for the crime and revealing all that his regime knows about it. But the administration has not pressed those issues at the U.N., and its diplomatic body language suggests it is trying to wrap up a long battle that has often placed the United States at odds with European allies who rely on Libyan oil.

Perhaps the administration believes the economic and diplomatic costs of a hard line on Libya now outweigh the benefits. Perhaps Mr. Gadhafi's recent expulsion from Libya of the Abu Nidal organization deserves to be rewarded. And perhaps it is futile to insist that Mr. Gadhafi tell everything he knows about the case, however contradictory it may be to prosecute the two bombers while settling, at most, for compensation from Mr. Gadhafi, who almost certainly would have ordered such an attack.

Whatever the rationale, the American public is entitled to a full explanation. But, with the exception of a speech by Assistant Secretary of State Ronald Neumann last November, the Clinton administration has kept its Libya decision-making in the shadows. Despite requests from the Pan Am 103 victims' families, it won't release the Annan letter, citing diplomatic privacy. A legitimate point—but it inevitably leaves many wondering whether the letter contains inappropriate promises to Mr. Gadhafi. If there's nothing untoward about the Clinton administration's overall Libya policy, why doesn't Secretary Albright, or, better, the president, do more to help the public understand it?

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## SENATE RESOLUTION 288—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 288

*Resolved,* That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, June 6, 2000, at the hour of 2:15 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

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## SENATE RESOLUTION 289—EXPRESSING THE SENSE OF THE SENATE REGARDING THE HUMAN RIGHTS SITUATION IN CUBA

Mr. TORRICELLI (for himself, Mr. HELMS, Mr. GRAHAM, Mr. MACK, and Mr. REID) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 289

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, provides a forum for discussing human rights and expressing international support for improved human rights performance;

Whereas the United States Department of State 1999 Country Reports on Human Rights Practices, released on February 25, 2000, includes the following statements describing conditions in Cuba:

(1) ''Cuba is a totalitarian state controlled by President Fidel Castro.... President Castro exercises control over all aspects of Cuban life.... The Communist Party is the only legal political entity.... There are no contested elections.... The judiciary is completely subordinate to the government and to the Communist Party....''.

(2) ''The Ministry of Interior...investigates and actively suppresses opposition and dissent. It maintains a pervasive system of vigilance through undercover agents, informers, the rapid response brigades, and the Committees for the Defense of the Revolution (CDR's)....''.

(3) ''[The government] continued systematically to violate fundamental civil and political rights of its citizens. Citizens do not have the right to change their government peacefully.... The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country....''.

(4) ''The government denied citizens the freedoms of speech, press, assembly, and association....It limited the distribution of foreign publications and news to selected party faithful and maintained strict censorship of news and information to the public. The government kept tight restrictions on freedom of movement, including foreign travel....''.

(5) ''The government continued to subject those who disagreed with it to 'acts of repudiation'. At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims are obliged to stage public protests against those who dissent with the government's policies.... Those who refuse to participate in these actions face disciplinary action, including loss of employment....''.

(6) ''Detainees and prisoners often are subjected to repeated, vigorous interrogations designed to coerce them into signing incriminating statements....The government does not permit independent monitoring of prison conditions....''.

(7) ''Arbitrary arrest and detention continued to be problems, and they remained the government's most effective weapons to harass opponents....[T]he Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the 'decision of the Cuban people to build socialism'. The authorities invoke this sweeping authority to deny due process to those detained on purported state security grounds....''.

(8) ''The Penal Code includes the concept of 'dangerousness', defined as the 'special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms'. If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to 'therapy' or

'political reeducation....' Often the sole evidence provided, particularly in political cases, is the defendant's confession, usually obtained under duress....''.

(9) ''Human rights monitoring groups inside the country estimate the number of political prisoners at between 350 and 400 persons....According to human rights monitoring groups inside the country, the number of political prisoners increased slightly during the year....''.

(10) ''The government does not allow criticism of the revolution or its leaders....Charges of disseminating enemy propaganda (which includes merely expressing opinions at odds with those of the government) can bring sentences of up to 14 years....Even the church-run publications are watched closely, denied access to mass printing equipment, and subject to governmental pressure....All media must operate under party guidelines and reflect government views....''.

(11) ''The law punishes any unauthorized assembly of more than 3 persons, including those for private religious services in a private home....The authorities have never approved a public meeting by a human rights group''.

(12) ''The government kept tight restrictions on freedom of movement....[S]tate security officials have forbidden human rights advocates and independent journalists from traveling outside their home provinces, and the government also has sentenced others to internal exile''.

(13) ''Citizens do not have the legal right to change their government or to advocate change, and the government has retaliated systematically against those who sought peaceful political change....An opposition or independent candidate has never been allowed to run for national office....''.

(14) ''The government does not recognize any domestic human rights groups, or permit them to function legally...the government refuses to consider applications for legal recognition submitted by human rights monitoring groups....The government steadfastly has rejected international human rights monitoring''.

(15) ''Workers can and have lost their jobs for their political beliefs, including their refusal to join the official union....[T]he government requires foreign investors to contract workers through state employment agencies...workers...must meet certain political qualifications...to ensure that the workers chosen deserve to work in a joint enterprise....[E]xploitative labor practices force foreign companies to pay the government as much as $500 to $600 per month for workers, while the workers in turn receive only a small peso wage from the government;''; and

Whereas the Czech Republic and Poland will again introduce a resolution condemning human rights practices of the Government of Cuba at the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland: Now, therefore, be it

*Resolved*,

**SECTION 1. SENSE OF THE SENATE REGARDING THE HUMAN RIGHTS SITUATION IN CUBA.**

(a) SUPPORT FOR HUMAN RIGHTS RESOLUTION.—The Senate hereby expresses its support for the decision of member states meeting at the 56th Session of the United Nations Human Rights Commission in Geneva, Switzerland, to consider a resolution introduced by the Czech Republic and Poland that, among other things, calls upon Cuba to respect ''human rights and fundamental freedoms and to provide the appropriate framework to guarantee the rule of law through democratic institutions and the independence of the judicial system''.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States should make every effort necessary, including the engagement of high-level executive branch officials, to encourage cosponsorship of and support for this resolution on Cuba by other governments.

(c) TRANSMITTAL OF RESOLUTION.—The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of State with the request that a copy be further transmitted to the chief of diplomatic mission in Washington, D.C., of each member state represented on the United Nations Human Rights Commission.

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## SENATE RESOLUTION 290—EXPRESSING THE SENSE OF THE SENATE THAT COMPANIES LARGE AND SMALL IN EVERY PART OF THE WORLD SHOULD SUPPORT AND ADHERE TO THE GLOBAL SULLIVAN PRINCIPLES OF CORPORATE SOCIAL RESPONSIBILITY WHEREVER THEY HAVE OPERATIONS

Mr. SPECTER (for himself and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 290

Whereas Reverend Leon Sullivan, author of the Global Sullivan Principles, is known throughout the world for his bold and principled efforts to dismantle the system of apartheid in South Africa, for his work with Opportunities Industrialization Centers (OIC's) to create jobs for over 1,000,000 youth in 130 United States cities and 18 countries, and for his work in literacy training all over the world;

Whereas Reverend Sullivan initiated the original Sullivan Principles in 1977 as a code of conduct for companies operating in South Africa;

Whereas the Global Sullivan Principles promote equal opportunity for employees of all ages, races, ethnic backgrounds, and religions;

Whereas the Global Sullivan Principles stress the social responsibilities of corporations;

Whereas on June 7, 1999, President Clinton gave approval to the Principles; and

Whereas on November 2, 1999, Kofi Annan, Secretary General of the United Nations, urged corporate leaders to put the Global Sullivan Principles into practice: Now, therefore, be it

*Resolved*,

**SECTION 1. CALLING FOR SUPPORT AND COMPLIANCE WITH THE GLOBAL SULLIVAN PRINCIPLES OF CORPORATE SOCIAL RESPONSIBILITY.**

The Senate calls on companies large and small in every part of the world to support and adhere to the Global Sullivan Principles of Corporate Social Responsibility wherever they have operations.

**SEC. 2. STATEMENT OF GLOBAL SULLIVAN PRINCIPLES OF CORPORATE SOCIAL RESPONSIBILITY.**

In this resolution, the term ''Global Sullivan Principles of Corporate Social Responsibility'' means the principles stated as follows:

''As a company which endorses the Global Sullivan Principles we will respect the law, and as a responsible member of society we will apply these Principles with integrity consistent with the legitimate role of business. We will develop and implement company policies, procedures, training, and internal reporting structures to ensure commitment to these principles throughout our organization. We believe the application of these principles will achieve greater tolerance and better understanding among peoples, and advance the culture of peace.

''Accordingly, we will;

''Express our support for universal human rights and, particularly, those of our employees, the communities within which we operate, and parties with whom we do business.

''Promote equal opportunity for our employees at all levels of the company with respect to issues such as color, race, gender, age, ethnicity or religious beliefs, and operate without unacceptable worker treatment such as the exploitation of children, physical punishment, female abuse, involuntary servitude, or other forms of abuse.

''Respect our employees' voluntary freedom of association.

''Compensate our employees to enable them to meet at least their basic needs and provide the opportunity to improve their skill and capability in order to raise their social and economic opportunities.

''Provide a safe and healthy workplace; protect human health and the environment and promote sustainable development.

''Promote fair competition including respect for intellectual and other property rights, and not offer, pay or accept bribes.

''Work with governments and communities in which we do business to improve the quality of life in those communities, their educational, cultural, economic and social well-being and seek to provide training and opportunities for workers from disadvantaged backgrounds.

''Promote the application of these principles by those with whom we do business.

''We will be transparent in our implementation of these principles and provide information which demonstrates publicly our commitment to them.''.

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## AMENDMENTS SUBMITTED

### MARRIAGE TAX PENALTY RELIEF ACT OF 2000

### DORGAN AMENDMENT NO. 3092

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill (H.R. 6) to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals; as follows:

At the appropriate place, insert the following:

**SEC. . TREATMENT OF CONSERVATION RESERVE PROGRAM PAYMENTS AS RENTALS FROM REAL ESTATE.**

(a) IN GENERAL.—Section 1402(a)(1) of the Internal Revenue Code of 1986 (defining net earnings from self-employment) is amended by inserting ''and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))'' after ''crop shares''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made before, on, or after the date of the enactment of this Act.

### SMITH AMENDMENT NO. 3093

(Ordered to lie on the table.)

Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill, H.R. 6, supra; as follows:

Strike section 3 and insert:

**SEC. 3. ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT AND 28-PERCENT RATE BRACKETS.**

(a) IN GENERAL.—Subsection (f) of section 1 of the Internal Revenue Code of 1986 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended by adding at the end the following new paragraph:

''(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT AND 28-PERCENT RATE BRACKETS.—

''(A) IN GENERAL.—With respect to taxable years beginning after December 31, 2001, in prescribing the tables under paragraph (1)—

''(i) the maximum taxable income amount in the 15-percent rate bracket, the minimum and maximum taxable income amounts in the 28-percent rate bracket, and the minimum taxable income amount in the 31-percent rate bracket in the table contained in subsection (a) shall be 200 percent of the comparable taxable income amounts in the table contained in subsection (c) (after any other adjustment under this subsection), and

''(ii) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under clause (i).

''(B) ROUNDING.—If any amount determined under subparagraph (A)(i) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 1(f)(2) of such Code is amended by inserting ''except as provided in paragraph (8),'' before ''by increasing''.

(2) The heading for subsection (f) of section 1 of such Code is amended by inserting ''ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT AND 28-PERCENT RATE BRACKETS;'' before ''ADJUSTMENTS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

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## SCHUMER (AND BAYH) AMENDMENT NO. 3094

(Ordered to lie on the table.)

Mr. SCHUMER (for himself and Mr. BAYH) submitted an amendment intended to be proposed by them to the bill, H.R. 6, supra; as follows:

At the appropriate place, insert the following:

**SEC. ___. DEDUCTION FOR HIGHER EDUCATION EXPENSES AND CREDIT FOR INTEREST ON HIGHER EDUCATION LOANS.**

(a) DEDUCTION ALLOWED.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following:

**''SEC. 222. HIGHER EDUCATION EXPENSES.**

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable dollar amount of the qualified higher education expenses paid by the taxpayer during the taxable year.

''(2) APPLICABLE DOLLAR AMOUNT.—The applicable dollar amount for any taxable year shall be determined as follows:

| ''Taxable year: | Applicable dollar amount: |
|---|---|
| 2002 | $4,000 |
| 2003 | $8,000 |
| 2004 and thereafter | $12,000. |

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $62,450 ($104,050 in the case of a joint return, $89,150 in the case of a return filed by a head of household, and $52,025 in the case of a return by a married individual filing separately), bears to

''(B) $15,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(A) without regard to this section and sections 911, 931, and 933, and

''(B) after the application of sections 86, 135, 219, 220, and 469.

For purposes of the sections referred to in subparagraph (B), adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(c) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

''(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse,

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

''(iv) any grandchild of the taxpayer,

as an eligible student at an institution of higher education.

''(B) ELIGIBLE COURSES.—Amounts paid for qualified higher education expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses—

''(i) are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school, and

''(ii) are not attributable to any graduate program of such individual.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

''(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

''(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

''(ii) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education.

''(E) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

''(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) is eligible to participate in programs under title IV of such Act.

''(d) SPECIAL RULES.—

''(1) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expense under such other provision.

''(B) DENIAL OF DEDUCTION IF CREDIT ELECTED.—No deduction shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the taxpayer elects to have section 25A apply with respect to such individual for such year.

''(C) DEPENDENTS.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(D) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 or 530(d)(2) for the taxable year.

''(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

''(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for qualified higher education expenses for any taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

''(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

''(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

''(A) a qualified scholarship which under section 117 is not includable in gross income,

''(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

''(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

''(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.''

(2) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of such Code is amended by inserting after paragraph (17) the following:

''(18) HIGHER EDUCATION EXPENSES.—The deduction allowed by section 222.''

(3) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following:

''Sec. 222. Higher education expenses.

''Sec. 223. Cross reference.''

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made in taxable years beginning after December 31, 2001.

(b) CREDIT FOR INTEREST ON HIGHER EDUCATION LOANS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

**''SEC. 25B. INTEREST ON HIGHER EDUCATION LOANS.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $1,200.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000 ($80,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000.

''(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 911, 931, and 933.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2003, the $50,000 and $80,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2002' for '1992'.

''(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

''(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(e)(1).

''(2) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount taken into account for any deduction under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''

(2) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Interest on higher education loans.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any qualified education loan (as defined in section 25B(e)(1) of the Internal Revenue Code of 1986, as added by this subsection) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 2002.

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## BAYH AMENDMENTS NOS. 3095–3096

(Ordered to lie on the table.)

Mr. BAYH submitted two amendments intended to be proposed by him to the bill, H.R. 6, supra; as follows:

AMENDMENT NO. 3095

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the ''Targeted Marriage Tax Penalty Relief Act of 2000''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—No amendment made by section 2 shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SEC. 2. MARRIAGE CREDIT.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

**''SEC. 25B. MARRIAGE CREDIT.**

''(a) ALLOWANCE OF CREDIT.—In the case of a joint return under section 6013, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of the amount determined under subsection (b) or (c) for the taxable year.

''(b) AMOUNT UNDER SUBSECTION (b).—For purposes of subsection (a), the amount under this subsection for any taxable year with respect to a taxpayer is determined in accordance with the following table:

| ''Taxable year: | Amount: |
|---|---|
| 2001 | $500 |
| 2002 | $900 |
| 2003 | $1,300 |
| 2004 and thereafter | $1,700. |

''(c) DETERMINATION OF AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a), the amount determined under this subsection for any taxable year with respect to a taxpayer is equal to the excess (if any) of—

''(A) the joint tentative tax of such taxpayer for such year, over

''(B) the combined tentative tax of such taxpayer for such year.

''(2) JOINT TENTATIVE TAX.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The joint tentative tax of a taxpayer for any taxable year is equal to the tax determined in accordance with the table contained in section 1(a) on the joint tentative taxable income of the taxpayer for such year.

''(B) JOINT TENTATIVE TAXABLE INCOME.—For purposes of subparagraph (A), the joint tentative taxable income of a taxpayer for any taxable year is equal to the excess of—

''(i) the earned income (as defined in section 32(c)(2)), and any income received as a pension or annuity which arises from an employer-employee relationship (including any social security benefit (as defined in section 86(d)(1)), of such taxpayer for such year, over

''(ii) the sum of—

''(I) either—

''(aa) the standard deduction determined under section 63(c)(2)(A)(i) for such taxpayer for such year, or

''(bb) in the case of an election under section 63(e), the total itemized deductions determined under section 63(d) for such taxpayer for such year, and

''(II) the total exemption amount for such taxpayer for such year determined under section 151.

''(3) COMBINED TENTATIVE TAX.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The combined tentative tax of a taxpayer for any taxable year is equal to the sum of the taxes determined in accordance with the table contained in section 1(c) on the individual tentative taxable income of each spouse for such year.

''(B) INDIVIDUAL TENTATIVE TAXABLE INCOME.—For purposes of subparagraph (A), the individual tentative taxable income of a spouse for any taxable year is equal to the excess of—

''(i) the earned income (as defined in section 32(c)(2)), and any income received as a pension or annuity which arises from an employer-employee relationship (including any social security benefit (as defined in section 86(d)(1)), of such spouse for such year, over

''(ii) the sum of—

''(I) either—

''(aa) the standard deduction determined under section 63(c)(2)(C) for such spouse for such year, or

''(bb) in the case of an election under section 63(e), one-half of the total itemized deductions determined under paragraph (2)(B)(ii)(I)(bb) for such spouse for such year, and

''(II) one-half of the total exemption amount determined under paragraph (2)(B)(ii)(II) for such year.

''(d) PHASEOUT OF CREDIT.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the

determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's adjusted gross income for such taxable year, over

''(ii) $120,000, bears to

''(B) $20,000.

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2004, the $1,700 amount referred to in subsection (b) and the $120,000 amount referred to in subsection (d)((2)(A)(ii) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2003' for '1992'.

''(2) ROUNDING.—If the $1,700 amount (as so referred) and the $120,000 amount (as so referred) as adjusted under paragraph (1) is not a multiple of $25 and $50, respectively, such amount shall be rounded to the nearest multiple of $25 and $50, respectively.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Marriage credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. 3. MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.**

(a) IN GENERAL.—Section 32(b) (relating to percentages and amounts) is amended—

(1) by striking ''PERCENTAGES.—The credit'' in paragraph (1) and inserting ''PERCENTAGES.—

''(A) IN GENERAL.—Subject to subparagraph (B), the credit'',

(2) by adding at the end of paragraph (1) the following new subparagraph:

''(B) JOINT RETURNS.—In the case of a joint return, the phaseout percentage determined under subparagraph (A)—

''(i) in the case of an eligible individual with 1 qualifying child shall be decreased by 1.87 percentage points, and

''(ii) in the case of an eligible individual with 2 or more qualifying child shall be decreased by 2.01 percentage points.'',

(3) by striking ''AMOUNTS.—The earned'' in paragraph (2) and inserting ''AMOUNTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the earned'', and

(4) by adding at the end the following new subparagraph:

''(B) JOINT RETURNS.—In the case of a joint return, the phaseout amount determined under subparagraph (A) shall be increased by $2,000.''.

(b) INFLATION ADJUSTMENT.—Paragraph (1)(B) of section 32(j) (relating to inflation adjustments) is amended to read as follows:

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined—

''(i) in the case of amounts in subsections (b)(2)(A) and (i)(1), by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof, and

''(ii) in the case of the $2,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) of such section 1.''.

(c) ROUNDING.—Section 32(j)(2)(A) (relating to rounding) is amended by striking ''subsection (b)(2)'' and inserting ''subsection (b)(2)(A) (after being increased under subparagraph (B) thereof)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

AMENDMENT NO. 3096

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This Act may be cited as the ''Targeted Marriage Tax Penalty Relief Act of 2000''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—No amendment made by section 2 shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SEC. 2. MARRIAGE CREDIT.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

**''SEC. 25B. MARRIAGE CREDIT.**

''(a) ALLOWANCE OF CREDIT.—In the case of a joint return under section 6013, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of the amount determined under subsection (b) or (c) for the taxable year.

''(b) AMOUNT UNDER SUBSECTION (b).—For purposes of subsection (a), the amount under this subsection for any taxable year with respect to a taxpayer is determined in accordance with the following table:

| ''Taxable year: | Amount: |
|---|---|
| 2001 | $500 |
| 2002 | $900 |
| 2003 | $1,300 |
| 2004 and thereafter | $1,700. |

''(c) DETERMINATION OF AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a), the amount determined under this subsection for any taxable year with respect to a taxpayer is equal to the excess (if any) of—

''(A) the joint tentative tax of such taxpayer for such year, over

''(B) the combined tentative tax of such taxpayer for such year.

''(2) JOINT TENTATIVE TAX.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The joint tentative tax of a taxpayer for any taxable year is equal to the tax determined in accordance with the table contained in section 1(a) on the joint tentative taxable income of the taxpayer for such year.

''(B) JOINT TENTATIVE TAXABLE INCOME.—For purposes of subparagraph (A), the joint tentative taxable income of a taxpayer for any taxable year is equal to the excess of—

''(i) the earned income (as defined in section 32(c)(2)), and any income received as a pension or annuity which arises from an employer-employee relationship (including any social security benefit (as defined in section 86(d)(1)), of such taxpayer for such year, over

''(ii) the sum of—

''(I) either—

''(aa) the standard deduction determined under section 63(c)(2)(A)(i) for such taxpayer for such year, or

''(bb) in the case of an election under section 63(e), the total itemized deductions determined under section 63(d) for such taxpayer for such year, and

''(II) the total exemption amount for such taxpayer for such year determined under section 151.

''(3) COMBINED TENTATIVE TAX.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The combined tentative tax of a taxpayer for any taxable year is equal to the sum of the taxes determined in accordance with the table contained in section 1(c) on the individual tentative taxable income of each spouse for such year.

''(B) INDIVIDUAL TENTATIVE TAXABLE INCOME.—For purposes of subparagraph (A), the individual tentative taxable income of a spouse for any taxable year is equal to the excess of—

''(i) the earned income (as defined in section 32(c)(2)), and any income received as a pension or annuity which arises from an employer-employee relationship (including any social security benefit (as defined in section 86(d)(1)), of such spouse for such year, over

''(ii) the sum of—

''(I) either—

''(aa) the standard deduction determined under section 63(c)(2)(C) for such spouse for such year, or

''(bb) in the case of an election under section 63(e), one-half of the total itemized deductions determined under paragraph (2)(B)(ii)(I)(bb) for such spouse for such year, and

''(II) one-half of the total exemption amount determined under paragraph (2)(B)(ii)(II) for such year.

''(d) PHASEOUT OF CREDIT.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's adjusted gross income for such taxable year, over

''(ii) $120,000, bears to

''(B) $20,000.

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2004, the $1,700 amount referred to in subsection (b) and the $120,000 amount referred to in subsection (d)((2)(A)(ii) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2003' for '1992'.

''(2) ROUNDING.—If the $1,700 amount (as so referred) and the $120,000 amount (as so referred) as adjusted under paragraph (1) is not a multiple of $25 and $50, respectively, such amount shall be rounded to the nearest multiple of $25 and $50, respectively.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Marriage credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. 3. MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.**

(a) IN GENERAL.—Section 32(b) (relating to percentages and amounts) is amended—

(1) by striking ''PERCENTAGES.—The credit'' in paragraph (1) and inserting ''PERCENTAGES.—

''(A) IN GENERAL.—Subject to subparagraph (B), the credit'',

(2) by adding at the end of paragraph (1) the following new subparagraph:

''(B) JOINT RETURNS.—In the case of a joint return, the phaseout percentage determined under subparagraph (A)—

''(i) in the case of an eligible individual with 1 qualifying child shall be decreased by 1.87 percentage points, and

''(ii) in the case of an eligible individual with 2 or more qualifying child shall be decreased by 2.01 percentage points.'',

(3) by striking ''AMOUNTS.—The earned'' in paragraph (2) and inserting ''AMOUNTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the earned'', and

(4) by adding at the end the following new subparagraph:

''(B) JOINT RETURNS.—In the case of a joint return, the phaseout amount determined under subparagraph (A) shall be increased by $2,000.''.

(b) INFLATION ADJUSTMENT.—Paragraph (1)(B) of section 32(j) (relating to inflation adjustments) is amended to read as follows:

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined—

''(i) in the case of amounts in subsections (b)(2)(A) and (i)(1), by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof, and

''(ii) in the case of the $2,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) of such section 1.''.

(c) ROUNDING.—Section 32(j)(2)(A) (relating to rounding) is amended by striking ''subsection (b)(2)'' and inserting ''subsection (b)(2)(A) (after being increased under subparagraph (B) thereof)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

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## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, April 27 at 9:30 a.m. in room SH–216 of the Hart Senate Office Building in Washington, DC.

This is the third in a series of hearings regarding pending electricity competition legislation: S. 282, the Transition to Competition in the Electric Industry Act; S. 516, the Electric Utility Restructuring Empowerment and Competitiveness Act of 1999; S. 1047, the Comprehensive Electricity Competition Act; S. 1284, the Electric Consumer Choice Act; S. 1273, the Federal Power Act Amendments of 1999; S. 1369, the Clean Energy Act of 1999; S. 2071, Electric Reliability 2000 Act; and S. 2098, the Electric Power Market Competition and Reliability Act.

For further information, please call Trici Heninger at (202) 224–7875.

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## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 12, 2000, at 9:30 a.m. on S. 2255—Internet Tax Freedom Act.

The Presiding Officer. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on governmental Affairs be authorized to meet during the session of the Senate on Wednesday, April 12, 2000 at 10:00 a.m. for a hearing regarding Wassenaar Arrangement and the Future of Multilateral Export Controls.

The Presiding Officer. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, April 12, 2000, at 11:00 a.m.

The Presiding Officer. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Wednesday, April 12, 2000, at 3:30 p.m. The markup will take place off the floor in The President's Room.

The Presiding Officer. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on Wednesday, April 12, 2000, at 9:30 a.m., in Hart 216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, April 2, 2000, at 9:30 a.m., to receive testimony on compelled political speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 12, 2000 at 10:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 12, 2000 at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, April 12, 2000, to conduct a hearing on ''Multi-State Insurance Agent Licensing Reforms and the Creation of the National Association of Registered Agents and Brokers.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, April 12 at 2:30 p.m. to conduct an oversight hearing. The subcommittee will receive testimony on federal actions affecting hydropower operations on the Columbia River system.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## PRIVILEGES OF THE FLOOR

Mr. ROBERTS. Mr. President, I ask unanimous consent that a congressional fellow, an outstanding pilot in the U.S. Air Force, Maj. Scott Kindsvater, be allowed privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask unanimous consent Elizabeth Smith, the legal counsel for the Employment, Safety and Training Subcommittee be granted the privilege of the floor during further debate on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## DISCHARGE AND REFERRAL OF S. 2163

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of S. 2163, a bill to provide for a study of the engineering feasibility of a water exchange in lieu of electrification of the Chandler Pumping Plant at Prosser Diversion Dam, Washington, and that the measure be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## AUTHORIZING TAKING OF PHOTOGRAPH

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 288, submitted earlier by Senator LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 288) authorizing the taking of a photograph in the Chamber of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 288) was agreed to, as follows:

S. RES. 288

*Resolved*, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, June 6, 2000, at the hour of 2:15 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

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## AUTHORIZING USE OF CAPITOL GROUNDS FOR 19TH ANNUAL NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

## AUTHORIZING USE OF CAPITOL GROUNDS FOR 200TH BIRTHDAY CELEBRATION OF THE LIBRARY OF CONGRESS

## AUTHORIZING USE OF THE EAST FRONT OF THE CAPITOL GROUNDS FOR CERTAIN PERFORMANCES

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of the following concurrent resolutions and, further, that the Senate proceed to their consideration en bloc: H. Con. Res. 278, H. Con. Res. 279, and H. Con. Res. 281.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolutions by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 278) authorizing the use of the Capitol Grounds for the 19th annual National Peace Officers' Memorial Service.

A concurrent resolution (H. Con. Res. 279) authorizing the use of the Capitol Grounds for the 200th birthday celebration of the Library of Congress.

A concurrent resolution (H. Con. Res. 281) authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts.

There being no objection, the Senate proceeded to consider the concurrent resolutions.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the resolutions be agreed to and the motions to reconsider be laid upon the table, with the above occurring en bloc.

The concurrent resolutions (H. Con. Res. 278, H. Con. Res. 279, and H. Con. Res. 281) were agreed to.

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## PROVIDING FOR CERTAIN APPOINTMENTS TO THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of the following Senate joint resolutions: S.J. Res. 40, S.J. Res. 41, and S.J. Res. 42, and I ask unanimous consent that the Senate proceed to these resolutions en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolutions by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 40) providing for the appointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

A joint resolution (S.J. Res. 41) providing for the appointment of Sheila E. Widnall as citizen regent of the Board of Regents of the Smithsonian Institution.

A joint resolution (S.J. Res. 42) providing for the reappointment of Manuel L. Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolutions.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the resolutions be read a third time and passed, en bloc, the motions to reconsider be laid upon the table, and any statements relating to these resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolutions (S.J. Res. 40, S.J. Res. 41, and S.J. Res. 42) were read the third time and passed, as follows:

S.J. RES. 40

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of resignation of Louis Gerstner of New York, is filled by the appointment of Alan G. Spoon of Maryland. The appointment is for a term of 6 years and shall take effect on the date of enactment of this joint resolution.

S.J. RES. 41

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Frank A. Shrontz of Washington on May 4, 2000, is filled by the appointment of Sheila E. Widnall of Massachusetts. The appointment is for a term of 6 years and shall take effect on May 5, 2000.

S.J. RES. 42

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Manuel L. Ibanez of Texas on May 4, 2000, is filled by the reappointment of the incumbent for a term of 6 years. The reappointment shall take effect on May 5, 2000.

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## STAR PRINT—S. 2343

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that S. 2343, the National Historic Lighthouse Preservation Act of 2000, as introduced on April 4, 2000, be star printed to add text that was inadvertently omitted in the original bill. That is a request of Senator MURKOWSKI.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ORDERS FOR THURSDAY, APRIL 13, 2000

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10:30 a.m. on Thursday, April 13. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 12:30 p.m., with Senators speaking up to 5 minutes each, with the following exceptions: Senator CRAPO, or his designee, 10:30 a.m. to 10:45 a.m.; Senator TIM HUTCHINSON, 10:45 a.m. to 11 a.m.; Senator BOB SMITH, or his designee, 11 a.m. to 11:30 a.m.; Senator HARRY REID, 20 minutes; Senator DODD, or his designee, 30 minutes; and Senator CONRAD, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. I further ask unanimous consent that at 12:30 p.m. the Senate remain in morning business with regard to the marriage tax penalty until 2 p.m., with the time equally divided between the two leaders, or their designees, and the Senate then proceed to the cloture vote with regard to the amendment to H.R. 6 at 2 p.m., with the mandatory quorum waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## PROGRAM

Mr. SMITH of New Hampshire. On behalf of the leader, I further announce, tomorrow morning there will be an opportunity in morning business for Senators to make general statements and for bill introductions until 12:30 p.m.

Following general morning business, Senators will begin statements with regard to the marriage tax penalty issue during a morning business period. By previous consent, at 2 p.m. there will be a cloture vote on the pending amendment to that important legislation.

It was hoped that an agreement would be reached to complete this measure after the Senate considered relevant amendments. Unfortunately, a consent could not be granted and, therefore, the 2 p.m. cloture vote is necessary. If cloture is not invoked on the substitute, there will be a second cloture vote on the underlying measure. Therefore, a second cloture vote may occur.

With April 15 fast approaching, this issue is of the utmost importance to many married couples and, therefore, it is essential that we vote tomorrow on moving forward with the bill.

Following the cloture votes, the Senate is expected to consider the budget resolution conference report. Therefore, additional votes will occur tomorrow afternoon.

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## ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. SMITH of New Hampshire. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:48 p.m., adjourned until Thursday, April 13, 2000, at 10:30 a.m.